



Federal Register

4-12-02

Vol. 67 No. 71

Pages 17905-18084

Friday

April 12, 2002



The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see <http://www.nara.gov/fedreg>.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at <http://www.access.gpo.gov/nara>. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512-1262; or call (202) 512-1530 or 1-888-293-6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday-Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is \$699, or \$764 for a combined **Federal Register**, **Federal Register Index** and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register Index** and LSA is \$264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is \$10.00 for each issue, or \$10.00 for each group of pages as actually bound; or \$2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 67 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche 202-512-1800
Assistance with public subscriptions 202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche 202-512-1800
Assistance with public single copies 1-866-512-1800
(Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Paper or fiche 202-523-5243
Assistance with Federal agency subscriptions 202-523-5243

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to <http://listserv.access.gpo.gov> and select:

Online mailing list archives

FEDREGTOC-L

Join or leave the list

Then follow the instructions.



Printed on recycled paper.

Contents

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

Agricultural Marketing Service

RULES

Watermelon research and promotion plan; correction,
17907

Agriculture Department

See Agricultural Marketing Service

See Forest Service

Alcohol, Tobacco and Firearms Bureau

RULES

Alcoholic beverages:

Denatured alcohol and rum; distribution and use, 17937–
17939

Blind or Severely Disabled, Committee for Purchase From People Who Are

See Committee for Purchase From People Who Are Blind
or Severely Disabled

Centers for Disease Control and Prevention

NOTICES

Agency information collection activities:

Proposed collection; comment request, 18012

Grants and cooperative agreements; availability, etc.:

Community-Based Participatory Prevention Research,
18012–18013

Commerce Department

See International Trade Administration

See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement list; additions and deletions, 17965–17967

Defense Department

See Uniformed Services University of the Health Sciences

PROPOSED RULES

Civilian health and medical program of uniformed services
(CHAMPUS):

Pharmacy Benefits Program; implementation, 17948–
17954

NOTICES

Meetings:

National Security Education Board, 17973–17974

Education Department

PROPOSED RULES

Federal claims collection:

Administrative wage garnishment, 18071–18080

NOTICES

Grants and cooperative agreements; availability, etc.:

Elementary and secondary education—

Safe and Drug-Free Schools and Communities National
Coordinator Program, 17974–17976

Vocational and adult education—

Tribally Controlled Postsecondary Vocational and
Technical Institutions Program, 17976–17978

Employment Standards Administration

NOTICES

Minimum wages for Federal and federally-assisted
construction; general wage determination decisions,
18040–18041

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Electricity export and import authorizations, permits, etc.:

TransCanada Power Marketing, Ltd., 17978–17979

Grants and cooperative agreements; availability, etc.:

High-energy density and laser-matter interaction studies,
17979

Environmental Protection Agency

RULES

Air programs; approval and promulgation; State plans for
designated facilities and pollutants:

Rhode Island, 17944–17946

Air quality implementation plans; approval and
promulgation; various States; air quality planning
purposes; designation of areas:

Nevada, 17939–17944

PROPOSED RULES

Air pollution control:

Interstate ozone transport reduction—

Nitrogen oxides; State implementation plan call,
technical amendments, and Section 126 rules;
response to court decisions, 17954–17955

Air programs:

Outer Continental Shelf regulations—

California; consistency update, 17955–17961

Air programs; approval and promulgation; State plans for
designated facilities and pollutants:

Rhode Island, 17961

Air quality implementation plans; approval and
promulgation; various States; air quality planning
purposes; designation of areas:

Nevada, 17955

NOTICES

Agency information collection activities:

Proposed collection; comment request, 17991–17992

Environmental statements; availability, etc.:

Agency statements—

Comment availability, 17992–17993

Weekly receipts, 17993–17994

Meetings:

Gulf of Mexico Program Management Committee, 17994

Pesticide programs:

Risk assessments; availability, etc.—

Sodium acifluorene, 17994–17996

Toxic and hazardous substances control:

Chemical testing—

Data receipt, 17996

Executive Office of the President

See Presidential Documents

Farm Credit Administration**RULES**

Farm credit system:

Organization—

Termination of FCS charter to become financial institution under another Federal or State chartering authority, 17907–17917

Federal Aviation Administration**RULES**

Airworthiness directives:

Boeing, 17917–17934

MD Helicopters, Inc., 17934–17936

Class E airspace; correction, 18059

PROPOSED RULES

Class D and Class E airspace; correction, 18059

Federal Communications Commission**PROPOSED RULES**

Radio stations; table of assignments:

Various States, 17963–17964

NOTICES

Agency information collection activities:

Reporting and recordkeeping requirements, 17996–17999

Federal Deposit Insurance Corporation**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 17999–18000

Meetings; Sunshine Act, 18000

Federal Energy Regulatory Commission**NOTICES**

Electric rate and corporate regulation filings:

PG&E Dispersed Generating Co., LLC, et al., 17985–17988

Environmental statements; availability, etc.:

Aquenergy Systems, Inc., 17988

Hydroelectric applications, 17988–17991

Hydroelectric applications; correction, 18059

Applications, hearings, determinations, etc.:

Destin Pipeline Co., L.L.C., 17979–17980

El Paso Natural Gas Co., 17980–17981

Gulf South Pipeline Co., LP, 17981

Kern River Gas Transmission Co., 17982

Natural Gas Pipeline Co. of America, 17982

Northern Border Pipeline Co., 17982

Northern Natural Gas Co., 17982–17983

Pine Needle LNG Co., LLC, 17983

Portland Natural Gas Transmission System, 17983

Questar Pipeline Co., 17983–17984

Reliant Energy Gas Transmission Co., 17984

TransColorado Gas Transmission Co., 17984

Transcontinental Gas Pipe Line Corp., 17984–17985

USG Pipeline Co., 17985

Federal Housing Finance Board**NOTICES**

Federal home loan bank system:

Community support review; members selected for review; list, 18000–18010

Federal Reserve System**NOTICES**

Banks and bank holding companies:

Formations, acquisitions, and mergers, 18010

Federal Trade Commission**RULES**

Appliances, consumer; energy consumption and water use information in labeling and advertising:

Comparability ranges—

Clothes washers, 17936–17937

NOTICES

Prohibited trade practices:

Obstetrics & Gynecology Medical Corp. of Napa Valley et al., 18010–18011

Food and Drug Administration**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 18013–18014

Meetings:

Drug manufacturing inspections; public workshops; correction, 18014

Forest Service**NOTICES**

Meetings:

Resource Advisory Committees—

Lincoln County, 17965

Ravalli County, 17965

General Services Administration**RULES**

Federal travel:

Promotional materials and frequent traveler programs; personal use by Federal employees, 17946–17947

Health and Human Services Department

See Centers for Disease Control and Prevention

See Food and Drug Administration

See Health Resources and Services Administration

See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration**NOTICES**

Meetings:

AIDS Advisory Committee, 18014–18015

Asian Americans and Pacific Islanders, President's Advisory Commission, 18015

Housing and Urban Development Department**NOTICES**

Grants and cooperative agreements; availability, etc.:

Facilities to assist homeless—

Excess and surplus Federal property, 18018

Immigration and Naturalization Service**RULES**

Nonimmigrant classes:

Change of status from B to F-1 or M-1 prior to pursuing a course of study, 18061–18064

PROPOSED RULES

Nonimmigrant classes:

Admission period for B nonimmigrant aliens, 18064–18069

NOTICES

Agency information collection activities:

Proposed collection; comment request, 18037–18040

Indian Affairs Bureau**NOTICES**

Environmental statements; availability, etc.:
 Muckleshoot Indian Reservation, King County, WA;
 White River Amphitheatre, 18018–18019

Interior Department

See Indian Affairs Bureau
 See Land Management Bureau
 See Minerals Management Service
 See National Park Service

Internal Revenue Service**NOTICES**

Agency information collection activities:
 Proposed collection; comment request, 18055–18057

International Trade Administration**NOTICES**

Antidumping:
 Gray portland cement and clinker from—
 Mexico, 17967
 Sulfanilic acid from—
 Hungary and Portugal, 17968
 Meetings:
 U.S. Automotive Parts Advisory Committee, 17968
 Overseas trade missions:
 2002 trade missions—
 Mexico; secretarial business development mission,
 17969–17970

Justice Department

See Immigration and Naturalization Service

NOTICES

Agency information collection activities:
 Proposed collection; comment request, 18036–18037

Labor Department

See Employment Standards Administration

Land Management Bureau**PROPOSED RULES**

Minerals management:
 Coal management—
 Coal lease modifications, etc.; correction, 17962
 Mining claims under general mining laws; surface
 management, 17962–17963

NOTICES

Agency information collection activities:
 Submission for OMB review; comment request, 18019–
 18020
 Closure of public lands:
 Nevada, 18020
 Coal leases, exploration licenses, etc.:
 Wyoming, 18020–18021
 Environmental statements; notice of intent:
 California Desert Conservation Area, CA, 18022–18023
 Meetings:
 Klamath Provincial Advisory Committee, 18023
 Motor vehicle use restrictions:
 Oregon, 18023–18024
 Public land orders:
 Colorado, 18024
 Realty actions; sales, leases, etc.:
 Nevada, 18024–18027
 New Mexico, 18027–18028
 Oregon, 18028–18029
 Survey plat filings:
 Alaska, 18029

Arkansas, 18030

Minerals Management Service**NOTICES**

Committees; establishment, renewal, termination, etc.:
 Minerals Management Advisory Board, 18030
 Outer Continental Shelf operations:
 Civil monetary penalties paid January 1–December 31,
 2001; list, 18030–18033
 Oil and gas lease sales—
 Restricted joint bidders list, 18033
 South Atlantic Planning Area—
 Official protraction diagrams, 18033

National Oceanic and Atmospheric Administration**NOTICES**

Permits:
 Endangered and threatened species, 17970–17973

National Park Service**NOTICES**

Committees; establishment, renewal, termination, etc.:
 Native American Graves Protection and Repatriation
 Review Committee, 18033–18034
 Environmental statements; notice of intent:
 Research specimens lawfully collected from National
 Park System units; information resulting in
 commercial value; benefits-sharing agreements,
 18034–18035
 Native American human remains and associated funerary
 objects:
 American Museum of Natural History, New York, NY—
 Inventory from Pinal County, AZ; correction, 18035–
 18036

National Science Foundation**NOTICES**

Meetings:
 Mathematical and Physical Sciences Advisory
 Committee, 18041

Nuclear Regulatory Commission**NOTICES**

Decommissioning plans; sites:
 Mallinckrodt CT-Project, St. Louis, MO, 18041–18043
 Environmental statements; availability, etc.:
 Dominion Nuclear Connecticut, Inc., 18044

Presidential Documents**PROCLAMATIONS***Special observances:*

National D.A.R.E. Day (Proc. 7539), 18081–18084
 National Former Prisoner of War Recognition Day (Proc.
 7538), 17905–17906

Public Health Service

See Centers for Disease Control and Prevention
 See Food and Drug Administration
 See Health Resources and Services Administration
 See Substance Abuse and Mental Health Services
 Administration

Railroad Retirement Board**NOTICES**

Agency information collection activities:
 Proposed collection; comment request, 18044–18045

Securities and Exchange Commission**NOTICES**

Investment Company Act of 1940:

Exemption applications—

Midland National Life Insurance Co. et al., 18046–18051

Pioneer Balanced Fund et al., 18045–18046

Securities:

Trade-Through Disclosure Rule; broker-dealers; temporary exemption; correction, 18059

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 18051–18052

Small Business Administration**NOTICES**

Disaster loan areas:

Kentucky, 18052

Substance Abuse and Mental Health Services Administration**NOTICES**

Grants and cooperative agreements; availability, etc.:

Family, juvenile, and adult treatment drug courts; treatment services program, 18015–18016

Mental Health Services Center—

Consumer and Consumer Supporter Technical Assistance Centers, 18016–18018

Surface Transportation Board**NOTICES**

Environmental statements; availability, etc.:

Alamo North Texas Railroad Corp., 18052–18053

Midwest Generation, LLC, 18053

Railroad services abandonment:

New York Central Lines, LLC, 18053–18054

Thrift Supervision Office**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 18057–18058

Transportation Department

See Federal Aviation Administration

See Surface Transportation Board

Treasury Department

See Alcohol, Tobacco and Firearms Bureau

See Internal Revenue Service

See Thrift Supervision Office

NOTICES

Agency information collection activities:

Submission for OMB review; comment request, 18054

Meetings:

Debt Management Advisory Committee, 18054–18055

Uniformed Services University of the Health Sciences**NOTICES**

Meetings; Sunshine Act, 17974

Separate Parts In This Issue**Part II**

Justice Department, Immigration and Naturalization Service, 18061–18069

Part III

Education Department, 18071–18080

Part IV

Executive Office of the President, Presidential Documents, 18081–18084

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list

archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR**Proclamations:**

7538.....17905
7539.....18083

7 CFR

1210.....17907

8 CFR

214.....18062
248.....18062

Proposed Rules:

214.....18065
235.....18065
248.....18065

12 CFR

611.....17907
614.....17907

14 CFR

39 (5 documents)17917,
17923, 17929, 17931, 17934
7118059

16 CFR

305.....17936

27 CFR

20.....17937

32 CFR**Proposed Rules:**

199.....17948

34 CFR**Proposed Rules:**

34.....18072

40 CFR

52.....17939
62.....17944
81.....17939

Proposed Rules:

51.....17954
52 (2 documents)17954,
17955
55.....17955
62.....17961
81.....17955
96.....17954
97.....17954

41 CFR

301-10.....17946
301-53.....17946

43 CFR**Proposed Rules:**

3430.....17962
3470.....17962
3800.....17962

47 CFR**Proposed Rules:**

73.....17963

Presidential Documents

Title 3—

Proclamation 7538 of April 4, 2002

The President

National Former Prisoner of War Recognition Day, 2002

By the President of the United States of America

A Proclamation

Throughout our Nation's history, patriotic Americans have responded to the call to defend our freedoms. During war and peace, American soldiers, sailors, airmen, and marines have stood vigilant, prepared, and willing to put themselves in harm's way to protect our Nation. We owe the liberties we have today to their brave service.

Americans who bear the title "Former Prisoner of War" are national heroes. Their service to our country placed them in dire circumstances, causing their capture and imprisonment by our country's enemies. These heroes suffered great adversity and sacrificed much for freedom and for the future of America.

This year, as we remember our former prisoners of war (POWs), we also mark the 60th anniversary of the Bataan Death March. Many of the American soldiers who defended Corregidor, until they were overwhelmed by enemy forces, never made it to prison camp. Many were killed outright, and many died after enduring unspeakable horrors. For those who survived the march, the war entered a new phase: the struggle against their captors. By enduring tremendous hardships and humiliations, and in gallantly supporting their fellow prisoners, these Americans exemplified the best of our Nation's spirit.

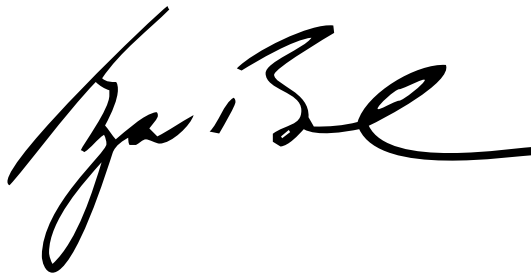
The families of POWs also spent long, lonely years without knowing whether they would ever see their loved ones again. As we remember our former POWs, we must also remember their families and friends who suffered along with them. Our Nation must never forget their courage.

Today, former POWs from across America work to assist their former comrades and their families to cope with the painful memories of the suffering that life as a POW inflicted. These courageous heroes have important and powerful stories to share, which can and should serve as an inspiration to succeeding generations. Through these efforts, former POWs have established a simple but enduring legacy, which ensures that their heroism and that of their fallen or missing comrades will not be forgotten.

On National Former Prisoner of War Recognition Day, we recognize the sacrifice of our former POWs and remember with honor their heroism. We also pledge that we will work to ensure that future generations will understand and appreciate the courage and contributions of these selfless heroes.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 2002, as National Former Prisoner of War Recognition Day. I call upon all the people of the United States to join me in remembering former American prisoners of war by honoring the memory of their sacrifices. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of April, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

A handwritten signature in black ink, appearing to read "G. W. Bush", written in a cursive style.

[FR Doc. 02-9104

Filed 4-11-02; 8:45 am]

Billing code 3195-01-P

Rules and Regulations

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[FV-01-701 FR C]

Watermelon Research and Promotion Plan: Referendum Procedures; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: The Agricultural Marketing Service (AMS) published a final rule in the **Federal Register** on November 7, 2001 (66 FR 56386), establishing referendum procedures to be used in connection with the Watermelon Research and Promotion Plan. The final rule contained errors in the section numbers. This document corrects those errors.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Daniel R. Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250-0244; telephone (202) 720-9915; faximile (202) 205-2800; or daniel.manzoni@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Department of Agriculture (Department) published a final rule in the **Federal Register** in November 2, 2001, [66 FR 56386], establishing referendum procedures pursuant to the Watermelon Research and Promotion Plan [7 CFR part 1210]. The Plan is issued under the Watermelon Research and Promotion Act [7 U.S.C. 4901-4916].

Need for Correction

As published, there were typographical errors in the final rule. Several section numbers in the final rule did not reference the correct sections of the Code of Federal Regulations. Accordingly, this correction document replaces the incorrect section numbers, §§ 1240.601 through § 1240.607, with the correct section numbers §§ 1210.601 through 1210.607.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

Accordingly, 7 CFR part 1210 is corrected by redesignating §§ 1240.601 through 1240.607 as §§ 1210.601 through 1210.607.

Dated: April 8, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02-8944 Filed 4-11-02; 8:45 am]

BILLING CODE 3410-02-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 614

RIN 3052-AB86

Organization; Loan Policies and Operations; Termination of Farm Credit Status

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This final rule amends our regulations to allow a Farm Credit System (FCS, Farm Credit or System) bank or association to terminate its FCS charter and become a financial institution under another Federal or State chartering authority. Our purpose is to amend the existing regulations so they apply to all System banks and associations and to make other changes.

EFFECTIVE DATE: This regulation will become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. We will publish

a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4479, TTY (703) 883-4434;

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-2020.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of our rule are to:

- Provide a termination procedure for Farm Credit associations and banks under section 7.10 of the Farm Credit Act of 1971, as amended (Act);
- Ensure that nonterminating FCS institutions can continue fulfilling their congressional mandate of serving the credit needs of farmers, ranchers, and cooperatives;
- Ensure that nonterminating FCS institutions are able to operate safely and soundly;
- Ensure that all equity holders of a terminating institution are treated fairly and equitably; and
- Ensure that stockholder disclosure materials are accurate, informative, and easy to understand.

II. Introduction

We proposed amendments to our existing termination rule on November 5, 1999. (See 64 FR 60370 for a full discussion of the 1999 proposal.) We also published a sample exit fee calculation for a hypothetical FCS bank and association choosing to terminate their Farm Credit status under the 1999 proposal. See 65 FR 5286, Feb. 3, 2000.

After further deliberations and consultation with the Farm Credit System Insurance Corporation (FCSIC), we repropose our termination rule primarily to change the method of calculating the equity of "dissenters." "Dissenters," for purposes of this preamble discussion, include (1) "dissenting stockholders," who are defined in the regulation as equity holders other than System institutions that choose not to hold stock in the successor institution, and (2) System institutions who choose not to hold stock in the successor institution. See 66 FR 43536, Aug. 20, 2001.

Our 1999 proposal required a terminating institution to retire the equities of dissenters, in cash or in exchange for other debt or equity in the successor institution (if the dissenter agreed), before calculation of the exit fee. We noted in the preamble to the 1999 proposal that such a calculation would enable dissenters to receive approximately the same payment for their equities that they would receive if the institution were liquidated.

Our reproposal and this final rule require the calculation of dissenters' equity "after payment" of the exit fee. Congress required System institutions to make a payment to the Farm Credit Insurance Fund (Insurance Fund) as one of the prerequisites to the exercise of the authority to terminate status as a System institution. Section 7.10(a)(4) of the Act provides for the terminating institution to pay "the amount by which the total capital of the institution exceeds, 6 percent of the assets." In addition, section 7.10(a)(7) of the Act provides that the terminating institution must meet "such other conditions as the Farm Credit Administration Board by regulation considers appropriate."

Calculating and deducting the exit fee before other payments maximizes the payment to the Insurance Fund. It also means that stockholders of a terminating institution will receive approximately the same proportionate value for their equities, whether they dissent or choose to be stockholders of the successor institution. Dissenters will not receive a windfall at the expense of the continuing stockholders, and vice versa. We believe the consequence is that stockholders will base their decision to support or dissent from termination on other aspects of the proposal, such as whether giving up Farm Credit status will benefit borrowers.

This final rule would make the following additional changes to the existing rule:

- The final rule applies to all FCS banks and associations. The existing rule applies to small associations only. In the existing rule, an association is defined as "small" when its investment in its affiliated FCS bank is 25 percent or less of the bank's capital, or when its loan from the bank totals 25 percent or less of the bank's total loans.

- In the final rule, an institution's exit fee is calculated on the date of termination. In the existing rule, the date of the exit fee calculation is the quarter end before the termination application is filed.

- In the final rule, terminating institutions must escrow 110 percent of both the estimated exit fee and cash stock retirements to dissenters pending

a final audit. After the audit confirms the final exit fee, the escrow agent will disburse the funds. In the existing rule, there are no escrow requirements.

- In the final rule, a terminating association may repay its direct loan on a schedule agreed to by its bank. In the existing rule, a terminating association must repay its direct loan in 3 years or less.

- If a bank and a terminating association are unable to agree on when and how the bank will retire the association's investment in the bank, the final rule requires the bank to retire the investment on or before the date the association's direct loan is repaid. In the existing rule, the FCA specifies how the investment is retired if the bank and the association cannot agree.

- In the final rule, System institutions have the option of exchanging their investments in a terminating institution for equity in the successor to the extent permitted by law. In the existing rule, System institutions do not have this option.

- In the final rule, a terminating bank's payment to the Farm Credit System Financial Assistance Corporation (FAC) is based on its retail loan volume, the loan volume of associations terminating with the bank, and the loan volume of associations maintaining their direct loan with the bank after termination. Payments to FAC by a bank are not covered in the existing rule because the existing rule does not cover the termination of an FCS bank.

III. Comments

We received two comment letters on our reproposal—one from the Farm Credit Council (Council) on behalf of its member FCS banks and associations and one from the Independent Community Bankers of America (ICBA). The ICBA is a trade association that represents approximately 5,000 community banks across the country. After carefully considering these comments, we have decided to adopt the final rule with no changes from the reproposal.

The Council requested that we amend the summary of our preamble to clarify that only a System bank or association may apply to terminate under this rule. We have done so.

The ICBA asserted that we should not allow any Farm Credit bank to terminate System status and that only FCS associations be allowed to terminate. However, the termination provisions of the Act apply to banks as well as associations. Section 7.10(a) of the Act permits any System "institution" to terminate its System status if that institution meets the conditions of

section 7.10(a)(1) through (7). Because the term "institution" is used throughout the Act to include banks as well as associations, section 7.10 of the Act clearly covers the termination of System banks. Therefore, the final rule continues to include banks and associations.

The ICBA further asserted this rule has the potential for creating an unlevel playing field, especially when the terminating bank's financial resources are the result of its government sponsorship as a System institution. However, section 7.10(a)(4) of the Act requires a terminating institution to pay an exit fee to the Insurance Fund in an amount by which the institution's total capital exceeds 6 percent of its assets. Therefore, the successor institution would keep only a limited amount of the financial resources that it accumulated as a System institution.

The ICBA recommended that we include termination procedures for other financing institutions (OFI) including how an OFI would obtain its capital should it decide to terminate its relationship with a Farm Credit bank. While OFIs have discount relationships with System banks pursuant to section 1.7(b)(1)(B) of the Act, they are not System institutions. Therefore, OFIs are not covered by section 7.10 of the Act.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not "small entities" as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping, Rural areas.

For the reasons stated in the preamble, parts 611 and 614 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 is revised to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.20, 4.21, 5.9, 5.10, 5.17, 6.9, 6.26, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2208, 2209, 2243, 2244, 2252, 2278a–9, 2278b–6, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

2. Revise subpart P to read as follows:

Subpart P—Termination of System Institution Status

Sec.

- 611.1200 Applicability of this subpart.
- 611.1205 Definitions that apply in this subpart.
- 611.1210 Commencement resolution and advance notice.
- 611.1215 Prohibited acts.
- 611.1220 Filing of termination application.
- 611.1221 Filing of termination application—timing.
- 611.1222 Plan of termination—contents.
- 611.1223 Information statement—contents.
- 611.1230 FCA review and approval.
- 611.1240 Voting record date and stockholder approval.
- 611.1245 Stockholder reconsideration.
- 611.1250 Preliminary exit fee estimate.
- 611.1255 Exit fee calculation.
- 611.1260 Payment of debts and assessments—terminating association.
- 611.1265 Retirement of a terminating association's investment in its affiliated bank.
- 611.1270 Repayment of obligations—terminating bank.
- 611.1275 Retirement of equities held by other System institutions.
- 611.1280 Dissenting stockholders' rights.
- 611.1285 Loan refinancing by borrowers.
- 611.1290 Continuation of borrower rights.

Subpart P—Termination of System Institution Status**§ 611.1200 Applicability of this subpart.**

The regulations in this subpart apply to each bank and association that desires to terminate its System institution status and become chartered as a bank, savings association, or other financial institution.

§ 611.1205 Definitions that apply in this subpart.

Assets means all assets determined in conformity with GAAP, except as otherwise required in this subpart.

GAAP means “generally accepted accounting principles” as that term is defined in § 621.2(c) of this chapter.

OFI means an “other financing institution” that has a funding and discount agreement with a Farm Credit bank under section 1.7(b)(1) of the Act.

Successor institution means the bank, savings association, or other financial institution that the terminating bank or association will become when we revoke its Farm Credit charter.

§ 611.1210 Commencement resolution and advance notice.

(a) *Adoption of commencement resolution.* Your board of directors must begin the termination process by adopting a commencement resolution stating your intention to terminate Farm Credit status under section 7.10 of the Act.

(b) *Advance notice.* Within 5 days after adopting the commencement resolution, you must:

(1) Send a certified copy of the commencement resolution to us and the Farm Credit System Insurance Corporation (FCSIC). If your institution is an association, also send a copy to your affiliated bank. If your institution is a bank, also send a copy to your affiliated associations, the other Farm Credit banks, the Federal Farm Credit Banks Funding Corporation (Funding Corporation), and the Farm Credit System Financial Assistance Corporation (FAC);

(2) Mail an announcement to all equity holders stating you are taking steps to terminate Farm Credit status and describing the following:

- (i) The process of termination;
- (ii) The expected effect of termination on equity holders, including the effect on borrower rights and the consequences of any stock retirements before termination;
- (iii) The type of charter the successor institution will have; and
- (iv) Any bylaw creating a special class of borrower stock and participation certificates under paragraph (f) of this section.

(c) *Bank negotiations on joint and several liability.* If your institution is a terminating bank, within 10 days of adopting the commencement resolution, your bank and the other Farm Credit banks must begin negotiations to provide for your satisfaction of liabilities (other than your primary liability) under section 4.4 of the Act. The Funding Corporation may, at its option, be a party to the negotiations to the extent necessary to fulfill its duties with respect to financing and disclosure. The agreement must comply with the requirements in § 611.1270(c).

(d) *Disclosure to customers after commencement resolution.* Between the date of the commencement resolution and the termination date, you must give the following information to your customers:

(1) For each applicant who is not a current stockholder, describe at the time of loan application:

- (i) The effect of the proposed termination on the borrower's loan; and
- (ii) Whether the borrower will continue to have any of the borrower rights provided under the Act and regulations.

(2) For any equity holders who ask to have their equities retired, explain that the retirement would extinguish the holder's right to exchange those equities for an interest in the successor institution. In addition, inform holders of equities entitled to your residual assets in liquidation that retirement before termination would extinguish their right to dissent from the termination and have their equities retired.

(e) *Terminating bank's right to continue issuing debt.* Through the termination date, a terminating bank may continue to participate in the issuance of consolidated and Systemwide obligations to the same extent it would be able to participate if it were not terminating.

(f) *Special class of stock.* Notwithstanding any requirements to the contrary in § 615.5230(b) of this chapter, you may adopt bylaws providing for the issuance of a special class of stock and participation certificates between the date of adoption of a commencement resolution and the termination date. Your stockholders must approve the special class before you adopt the commencement resolution. The equities must comply with section 4.3A of the Act and be identical in all respects to existing classes of equities that are entitled to the residual assets of the institution in a liquidation, except for the value a holder will receive in a termination. In a termination, the holder of the special class of stock receives value equal to the lower of either par (or face) value, or the value calculated under § 611.1280(c) and (d). A holder must have the same right to vote (if the equity is held on the voting record date) and to dissent as holders of similar equities issued before the commencement resolution. If the termination does not occur, the special classes of stock and participation certificates must automatically convert into shares of the otherwise identical equities.

§ 611.1215 Prohibited acts.

(a) *Statements about termination.* Neither the institution nor any director, officer, employee, or agent may make any untrue or misleading statement of a material fact, or fail to disclose any

material fact, about the termination to a current or prospective equity holder.

(b) *Representations regarding FCA approval.* Neither the institution nor any director, officer, employee, or agent may make an oral or written representation to anyone that a preliminary or final approval of the termination by us is, directly or indirectly, either a recommendation on the merits of the proposal or an assurance that the information you give to your equity holders is adequate or accurate.

§ 611.1220 Filing of termination application.

(a) *Adoption of termination resolution.* Your board must adopt a termination resolution authorizing the application for termination and for a new charter.

(b) *Contents of termination application.* Send us an original and five copies of the termination application for review and preliminary approval. If you send us the application in electronic form, you must send us at least one hard copy application with original signatures. The application must contain:

- (1) A certified copy of the termination resolution;
- (2) A copy of the plan of termination required under § 611.1222;
- (3) An information statement that complies with § 611.1223;
- (4) All other information that you give to current or prospective equity holders in connection with the termination; and
- (5) Any additional information that either we request or your board of directors wishes to submit in support of the application.

(c) *Requirement to update application.* You must immediately send us any material changes to information in the plan of termination, including financial information, that occur between the date you file the application and the termination date. In addition, send us copies of any additional written information on the termination that you give to current or prospective equity holders before termination.

§ 611.1221 Filing of termination application—timing.

If we receive the termination application required in § 611.1220 less than 30 days after receiving the advance notice, we may in our discretion disapprove the application.

§ 611.1222 Plan of termination—contents.

The plan of termination must include:

- (a) Copies of all contracts, agreements, and other documents on the proposed

termination and organization of the successor institution.

(b) A statement of how you will transfer assets to, and have your liabilities assumed by, the successor institution.

(c) Your plan to retire outstanding equities or convert them to equities of the successor institution.

(d) A copy of the charter application for the successor institution, with any exhibits or other supporting information.

(e) A statement, if applicable, whether the successor institution will continue to borrow from a Farm Credit bank and how such a relationship will affect your provision for payment of debts. The plan of termination must include evidence of any agreement and plan for satisfaction of outstanding debts (including amounts you owe to the FAC because of the termination).

§ 611.1223 Information statement—contents.

(a) *Plain language requirements.* (1) Present the contents of the information statement in a clear, concise, and understandable manner.

(2) Use short, explanatory sentences, bullet lists or charts where helpful, and descriptive headings and subheadings.

(3) Minimize the use of glossaries or defined terms.

(4) Write in the active voice when possible.

(5) Avoid legal and highly technical business terminology.

(b) *Disclaimer.* Place the following statement in boldface type in the material sent to equity holders, either on the notice of meeting or the first page of the information statement:

The Farm Credit Administration has not determined if this information is accurate or complete. You should not rely on any statement to the contrary.

(c) *Summary.* The first part of the information statement must be a summary that concisely explains:

- (1) Which stockholders have a right to vote on termination;
- (2) The material changes the termination will cause to the rights of stockholders, borrowers, and other equity holders;
- (3) The effect of those changes;
- (4) The potential benefits and disadvantages of the termination;
- (5) The right of certain stockholders to dissent and receive payment for their existing equities; and
- (6) The proposed termination date.

(d) *Remaining requirements.* The rest of the information statement must contain the following:

- (1) *Plan of termination.* Describe the plan of termination.

(2) *Benefits and disadvantages.*

Provide the following information:

(i) An enumerated statement of the anticipated benefits and potential disadvantages of the termination;

(ii) An explanation of the preliminary exit fee estimate, with any adjustments we require, and estimated expenses of termination and organization of the successor institution; and

(iii) An explanation of the board's basis for recommending the termination.

(3) *Initial board of directors.* List the initial board of directors and senior officers for the successor institution, with a brief description of the business experience of each person, including principal occupation and employment during the past 5 years.

(4) *Bylaws and charter.* Summarize the provisions of the bylaws and charter of the successor institution that differ materially from your bylaws and charter. The summary must state:

(i) Whether the successor institution will require a borrower to hold an equity interest as a condition for having a loan; and

(ii) Whether the successor institution will require stockholders to do business with the institution.

(5) *Changes to equity.* Explain any changes in the nature of equity investments in the successor institution, such as changes in dividends, patronage, voting rights, preferences, retirement of equities, and liquidation priority. If equities protected under section 4.9A of the Act are outstanding, the information statement must state that the Act's protections will be extinguished on termination.

(6) *Effect of termination on statutory and regulatory rights.* Explain the effect of termination on rights granted by the Act and FCA regulations. You must explain the effect termination will have on borrower rights granted in the Act and subparts K, L, and N of part 614 of this chapter.

(7) *Loan refinancing by borrowers.* (i) State, as applicable, that borrowers may seek to refinance their loans with the System institutions that already serve, or will be permitted to serve, your territory. State that no System institution is obligated to refinance your loans.

(ii) If we have assigned your territory to another System institution before the information statement is mailed to equity holders, or if another System institution is already chartered to make the same type of loans you make in your territory, identify such institution(s) and provide the following information:

- (A) The name, address, and telephone number of the institution; and

(B) An explanation of the institution's procedures for borrowers to apply for refinancing.

(iii) If we have not assigned the territory before you mail the information statement, give the name, address, and telephone number of the System institution specified by us and state that borrowers may contact the institution for information about loan refinancing.

(8) *Equity exchanges.* Explain the formula and procedure to exchange equity in your institution for equity in the successor institution.

(9) *Employment, retirement, and severance agreements.* Describe any employment agreement or arrangement between the successor institution and any of your senior officers (as defined in § 620.1 of this chapter) or directors. Describe any severance and retirement plans that cover your employees or directors and state the costs you expect to incur under the plans in connection with the termination.

(10) *Exit fee calculation.* Explain how the exit fee will be calculated.

(11) *New charter.* Describe the nature and type of financial institution the successor institution will be and any conditions of approval of the new chartering authority or regulator.

(12) *Differences in successor institution's programs and policies.* Summarize any differences between you and the successor institution on:

- (i) Interest rates and fees;
- (ii) Collection policies;
- (iii) Services provided; and
- (iv) Any other item that would affect a borrower's lending relationship with the successor institution, including whether a stockholder's ability to borrow from the institution will be restricted.

(13) *Capitalization.* Discuss expected capital requirements of the successor institution, and the amount and method of capitalization.

(14) *Sources of funding.* Explain the sources and manner of funding for the successor institution's operations.

(15) *Contingent liabilities.* Describe how the successor institution will address any contingent liability it will assume from you.

(16) *Tax status.* Summarize the differences in tax status between your institution and the successor institution, and explain how the differences will affect stockholders.

(17) *Regulatory environment.* Describe briefly how the regulatory environment for the successor institution will differ from your current regulatory environment, and any effect on the cost of doing business or the value of stockholders' equity.

(18) *Dissenters' rights.* Explain which equity holders are entitled to dissenters'

rights and what those rights are. The explanation must include the estimated liquidation value of the stock, procedures for exercising dissenters' rights, and a statement of when the rights may be exercised.

(19) *Financial information.* (i) Present the following financial data:

(A) A balance sheet and income statement for each of the 3 preceding fiscal years;

(B) A balance sheet as of a date within 90 days of the date you mail the termination application to us, presented on a comparative basis with the corresponding period of the previous 2 fiscal years;

(C) An income statement for the interim period between the end of the last fiscal year and the date of the balance sheet required by paragraph (d)(19)(i)(B) of this section, presented on a comparative basis with the corresponding period of the previous 2 fiscal years;

(D) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most recent balance sheet presented in the statement; and

(E) A pro forma summary of earnings for the successor institution presented as if the termination had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented under paragraph (d)(19)(i)(D) of this section.

(ii) The format for the balance sheet and income statement must be the same as the format in your annual report and must contain appropriate footnote disclosures, including data on high-risk assets, other property owned, and allowance for losses.

(iii) The financial statements must include either:

(A) A statement signed by the chief executive officer and each board member that the various financial statements are unaudited but have been prepared in all material respects in conformity with GAAP (except as otherwise disclosed) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the institution; or

(B) A signed opinion by an independent certified public accountant that the various financial statements have been examined in conformity with generally accepted auditing standards and included such tests of the accounting records and other such auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the institution in conformity with GAAP

applied on a consistent basis, except as otherwise disclosed.

(20) *Subsequent financial events.* Describe any event after the date of the financial statements, but before the date you send the termination application to us, that would have a material impact on your financial condition or the condition of the successor institution.

(21) *Other subsequent events.* Describe any event after you send the termination application to us that could have a material impact on any information in the termination application.

(22) *Other material disclosures.* Describe any other material fact or circumstance that a stockholder would need to know to make an informed decision on the termination, or that is necessary to make the disclosures not misleading.

(23) *Ballot and proxy.* Include a ballot and proxy, with instructions on the purpose and authority for their use, and the proper method for the stockholder to sign the proxy.

(24) *Board of directors certification.* Include a certification signed by the entire board of directors as to the truth, accuracy, and completeness of the information contained in the information statement. If any director refuses to sign the certification, the director must inform us of the reasons for refusing.

§ 611.1230 FCA review and approval.

(a) *FCA review period.* We will review a termination application and either give preliminary approval or disapprove the application no later than 60 days after we receive the application.

(b) *Reservation of right to disapprove termination.* In addition to any other reason for disapproval, we may disapprove a termination if we determine that the termination would have a material adverse effect on the ability of the remaining System institutions to fulfill their statutory purpose.

(c) *Conditions of final FCA approval.* We will give final approval to your termination application only if:

(1) Your stockholders vote in favor of termination in the termination vote and in any reconsideration vote;

(2) You give us executed copies of all contracts, agreements, and other documents submitted under § 611.1222;

(3) You have paid or made adequate provision for payment of debts, including responsibility for any contingent liabilities, and for retirement of equities;

(4) A Federal or State chartering authority has granted a new charter to the successor institution;

(5) You deposit into escrow an amount equal to 110 percent of the estimated exit fee plus 110 percent of the estimated amount you must pay to retire equities of dissenting stockholders and Farm Credit institutions, as described in § 611.1255(c); and

(6) You have fulfilled any other condition of termination we have imposed.

(d) *Effective date of termination.* If we grant final approval, we will revoke your charter, and the termination will be effective on the last to occur of:

(1) Fulfillment of all conditions listed in paragraph (c) of this section;

(2) Your proposed termination date;

(3) Ninety (90) days after we receive the notice described in § 611.1240(e); and

(4) Fifteen (15) days after any reconsideration vote.

§ 611.1240 Voting record date and stockholder approval.

(a) *Stockholder meeting.* You must call the meeting by written notice in compliance with your bylaws. The stockholder meeting to vote on the termination must occur within 60 days of our preliminary approval (or, if we take no action, within 60 days of the end of our approval period).

(b) *Voting record date.* The voting record date may not be more than 70 days before the stockholders' meeting.

(c) *Information statement.* You must provide all equity holders with a notice of meeting and the information statement required by § 611.1223 at least 30 days before the stockholder vote.

(d) *Voting procedures.* The voting procedures must comply with § 611.330. You must have an independent third party count the ballots. If a voting stockholder notifies you of the stockholder's intent to exercise dissenters' rights, the tabulator must be able to verify to you that the stockholder voted against the termination. Otherwise, the votes of stockholders must remain confidential.

(e) *Notice to FCA and equity holders of voting results.* Within 10 days of the termination vote, you must send us a certified record of the results of the vote. You must notify all equity holders of the results within 30 days after the stockholder meeting. If the stockholders approve the termination, you must give the following information to equity holders:

(1) Stockholders who voted against termination and equity holders who were not entitled to vote have a right to dissent as provided in § 611.1280; and

(2) Voting stockholders have a right, under § 611.1245, to file a petition with the FCA for reconsideration within 35

days after the date you mail to them the notice of the results of the termination vote.

(f) *Requirement to notify new equity holders.* You must provide the information described in paragraph (e)(1) of this section to each person that becomes an equity holder after the termination vote and before termination.

§ 611.1245 Stockholder reconsideration.

(a) *Right to reconsider termination.* Voting stockholders have the right to reconsider their approval of the termination if a petition signed by 15 percent of the stockholders is filed with us within 35 days after you mail notices to stockholders that the termination was approved. If we determine that the petition complies with the requirements of section 7.9 of the Act, you must call a special stockholders' meeting to reconsider the vote. The meeting must occur within 60 days after the date on which you mailed to stockholders the results of the termination vote. If a majority of the stockholders voting, in person or by proxy, vote against the termination, the termination may not take place.

(b) *Stockholder list and expenses.* You must, at your expense, timely give stockholders who request it a list of the names and addresses of stockholders eligible to vote in the reconsideration vote. The petitioners must pay all other expenses for the petition. You must pay expenses that you incur for the reconsideration vote.

§ 611.1250 Preliminary exit fee estimate.

(a) *Preliminary exit fee estimate—terminating association.* You must provide a preliminary exit fee estimate to us when you submit the termination application. Calculate the preliminary exit fee estimate in the following order:

(1) Base your exit fee calculation on the average daily balances of assets and liabilities for the 12-month period as of the quarter end immediately before the date you send us your termination application.

(2) Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as "dollar amount."

(3) Compute the average daily balances based on financial statements that comply with GAAP. The financial statements, as of the quarter end immediately before the date you send us your termination application, must be independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter. We may, in our discretion, waive the audit

requirement if an independent audit was performed as of a date less than 6 months before you submit the termination application.

(4) Make adjustments to assets as follows:

(i) Add back expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, and application fees for the termination and reorganization.

(ii) Subtract the following:

(A) The dollar amount of your estimated payment (to your affiliated bank) related to FAC obligations as described in § 611.1260(d); and

(B) The dollar amount of your estimated taxes due to the termination.

(iii) Adjust for the dollar amount of significant transactions you reasonably expect to occur between the quarter end before you file your termination application and termination. Examples of these transactions include, but are not limited to, gains or losses on the sale of assets, retirements of equity, loan repayments, and patronage distributions. Do not make adjustments for future expenses related to termination, such as severance or special retirement payments, or stock retirements to dissenting stockholders and Farm Credit institutions.

(5) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(6) Make any adjustments we require under paragraph (c) of this section.

(7) After making these adjustments to assets and liabilities, subtract liabilities from assets. This is your preliminary total capital for purposes of termination.

(8) Multiply assets as adjusted above by 6 percent, and subtract this amount from preliminary total capital. This is your preliminary exit fee estimate.

(b) *Preliminary exit fee estimate—terminating bank.* (1) Affiliated associations that are terminating with you must calculate their individual preliminary exit fee estimates as described in paragraph (a) of this section.

(2) Base your exit fee calculation on the average daily balances of assets and liabilities for the 12-month period as of the quarter end immediately before the date you send us your termination application.

(3) Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as "dollar amount."

(4) Compute the average daily balances based on bank-only financial statements that comply with GAAP. The financial statements, as of the quarter end immediately before the date you send us your termination application, must be independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter. We may, in our discretion, waive this requirement if an independent audit was performed as of a date less than 6 months before you submit the termination application.

(5) Make adjustments to assets and liabilities as follows:

(i) Add back to assets the following:

(A) Expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, and application fees for the termination and reorganization; and

(B) Any specific allowance for losses, and a pro rata portion of any general allowance for loan losses, on direct loans to associations that you do not expect to incur before or at termination.

(ii) Subtract from your assets and liabilities an amount equal to your direct loans to your affiliated associations that are not terminating.

(iii) Subtract the following from assets:

(A) Equity investments in your institution that are held by nonterminating associations and that you expect to transfer to another System bank before or at termination. A nonterminating association's investment consists of purchased equities, allocated equities, and a share of the bank's unallocated surplus calculated in accordance with the bank's bylaw provisions on liquidation. We may require a different calculation method for the unallocated surplus if we determine that using the liquidation provision would be inequitable to stockholders;

(B) The dollar amount of your estimated termination payment to the FAC, as described in § 611.1270(d); and

(C) The dollar amount of estimated taxes due to the termination.

(iv) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(v) Adjust for the dollar amount of significant transactions you reasonably expect to occur between the quarter end before you file your termination application and termination. Examples of these transactions include, but are not limited to, retirements of equity, loan repayments, and patronage distributions. Do not make adjustments

for future expenses related to termination, such as severance or special retirement payments, or stock retirements to dissenting stockholders and Farm Credit institutions.

(6) Add to assets the dollar amount of estimated termination payments of the terminating associations related to FAC obligations.

(7) Make any adjustments we require under paragraph (c) of this section.

(8) After the above adjustments, combine your balance sheet with the balance sheets of your terminating associations after they have made the adjustments required in paragraph (a) of this section. Subtract liabilities from assets. This is your preliminary total capital estimate for purposes of termination.

(9) Multiply the assets of the combined balance sheet after the above adjustments by 6 percent. Subtract this amount from the preliminary total capital estimate of the combined balance sheet. The remainder is the preliminary exit fee estimate of the bank and terminating affiliated associations.

(10) Your preliminary exit fee estimate is the amount by which the preliminary exit fee estimate for the combined entity exceeds the total of the individual preliminary exit fee estimates of your affiliated terminating associations.

(c) *Three-year look-back.* (1) We will review your transactions over the 3 years before the date of the termination resolution under § 611.1220. Our review will include, but not be limited to, the following:

(i) Additions to or subtractions from any allowance for losses;

(ii) Additions to assets or liabilities, or subtractions from assets or liabilities, due to transactions that are outside your ordinary course of business;

(iii) Dividends or patronage refunds exceeding your usual practices;

(iv) Changes in the institution's capital plan, or in implementing the plan, that increased or decreased the level of borrower investment;

(v) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(vi) Assets that may be overvalued, undervalued, or not recorded on your books.

(2) If we determine the account balances do not accurately show the value of your assets and liabilities (whether the assets and liabilities were booked before or during the 3-year look-back period), we will make any adjustments we deem necessary.

(3) We may require you to reverse the effect of a transaction if we determine that:

(i) You have retired capital outside the ordinary course of business;

(ii) You have taken any other actions unrelated to your core business that have the effect of changing the exit fee; or

(iii) You incurred expenses related to termination prior to the 12-month average daily balance period on which the exit fee calculation is based.

(4) We may require you to make these adjustments to the preliminary exit fee estimate that is disclosed in the information statement, the final exit fee calculation, and the calculations of the value of equities held by dissenting stockholders, Farm Credit institutions that choose to have their equities retired at termination, and reaffiliating associations.

§ 611.1255 Exit fee calculation.

(a) *Final exit fee calculation—terminating association.* Calculate the final exit fee in the following order:

(1) Base your exit fee calculation on the average daily balances of assets and liabilities for the 12-month period preceding the termination date. Assume for this calculation that you have not paid or accrued the items described in paragraph (a)(4)(ii) of this section.

(2) Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as "dollar amount."

(3) Compute the average daily balances based on financial statements that comply with GAAP. The financial statements, as of the termination date, must be independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter.

(4) Make adjustments to assets and liabilities as follows:

(i) Add back expenses related to termination incurred in the 12 months before termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, payments of severance and special retirements, and application fees for the termination and reorganization.

(ii) Subtract from assets the following:

(A) The dollar amount of your termination payment (to your affiliated bank) related to FAC obligations as described in § 611.1260(d); and

(B) The dollar amount of taxes you will have to pay due to the termination;

(iii) Subtract from liabilities any liability that we treat as regulatory capital under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(iv) Make the adjustments that we require under § 611.1250(c). For the

final exit fee, we will review and may require additional adjustments for transactions between the date you adopted the termination resolution and the termination date.

(5) After making these adjustments to assets and liabilities, subtract liabilities from assets. This is your total capital for purposes of termination.

(6) Multiply assets by 6 percent, and subtract this amount from total capital. This is your final exit fee.

(b) *Final exit fee calculation—terminating bank.* (1) The individual exit fees of affiliated associations that are terminating with you must be calculated as described in paragraph (a) of this section.

(2) Base your exit fee calculation on the average daily balances of assets and liabilities for the 12-month period preceding the termination date. Assume for this calculation that you have not paid or accrued the items described in paragraph (b)(5)(iii)(B) and (C) of this section.

(3) Any amounts we refer to in this section are average daily balances unless we specify that they are not. Amounts that are not average daily balances will be referred to as “dollar amount.”

(4) Compute the average daily balances based on bank-only financial statements that comply with GAAP. The financial statements, as of the termination date, must be independently audited by a qualified public accountant, as defined in § 621.2(i) of this chapter.

(5) Make adjustments to assets and liabilities as follows:

(i) Add back the following to your assets:

(A) Expenses you have incurred related to termination. Related expenses include, but are not limited to, legal services, accounting services, auditing, business planning, payments of severance and special retirements, and application fees for the termination and reorganization.

(B) The dollar amount of the termination payments to you by the terminating associations related to FAC obligations.

(C) Any specific allowance for losses, and a pro rata share of any general allowance for losses, on direct loans to associations that are paid off or transferred before or at termination.

(ii) Subtract from your assets and liabilities your direct loans to affiliated associations that were paid off or transferred in the 12-month period before termination or at termination.

(iii) Subtract from your assets the following:

(A) Equity investments held in your institution by affiliated associations that you transferred at termination or during the 12 months before termination;

(B) The dollar amount of your termination payment to the FAC; and

(C) The dollar amount of taxes paid or accrued due to the termination;

(iv) Subtract from liabilities any liability that we treat as regulatory capital (or that we do not treat as a liability) under the capital or collateral requirements in subparts H and K of part 615 of this chapter.

(v) Make the adjustments that we require under § 611.1250(c). For the final exit fee, we will review and may require additional adjustments for transactions between the date you adopted the termination resolution and the termination date.

(6) After the above adjustments, combine your balance sheet with the balance sheets of terminating associations after making the adjustments required in paragraph (a) of this section.

(7) Subtract combined liabilities from combined assets. This is the total capital of the combined balance sheet.

(8) Multiply the assets of the combined balance sheet after the above adjustments by 6 percent. Subtract this amount from the total capital of the combined balance sheet. This amount is the combined final exit fee for your institution and the terminating affiliated associations.

(9) Your final exit fee is the amount by which the combined final exit fee exceeds the total of the individual final exit fees of your affiliated terminating associations.

(c) *Payment of exit fee.* On the termination date, you must:

(1) Deposit into an escrow account acceptable to us and the FCSIC an amount equal to 110 percent of the preliminary exit fee estimate, adjusted to account for stock retirements to dissenting stockholders and Farm Credit institutions, and any other adjustments we require.

(2) Deposit into an escrow account acceptable to us an amount equal to 110 percent of the equity you must retire for dissenting stockholders and System institutions holding stock that would be entitled to a share of the remaining assets in a liquidation.

(d) *Pay-out of escrow.* Following the independent audit of the institution's account balances as of the termination date, we will determine the amount of the final exit fee and the amounts owed to stockholders to retire their equities. We will then direct the escrow agent to:

(1) Pay the exit fee to the Farm Credit Insurance Fund;

(2) Pay the amounts owed to dissenting stockholders and Farm Credit institutions; and

(3) Return any remaining amounts to the successor institution.

(e) *Additional payment.* If the amount held in escrow is not enough to pay the amounts under paragraph (d)(1) and (2) of this section, the successor institution must pay any remaining liability to the escrow agent for distribution to the appropriate parties. The termination application must include evidence that, after termination, the successor institution will pay any remaining amounts owed.

§ 611.1260 Payment of debts and assessments—terminating association.

(a) *General rule.* If your institution is a terminating association, you must pay or make adequate provision for the payment of all outstanding debt obligations and assessments.

(b) *No OFI relationship.* If the successor institution will not become an OFI, you must either:

(1) Pay debts and assessments owed to your affiliated Farm Credit bank at termination; or

(2) With your affiliated Farm Credit bank's concurrence, arrange to pay any obligations or assessments to the bank after termination.

(c) *Obligations to other Farm Credit institutions.* You must pay or make adequate provision for payment of obligations to any Farm Credit institution (other than your affiliated bank) under any loss-sharing or other agreement.

(d) *FAC payments.* Before termination, you must pay the estimated present value of future assessments and payment obligations to your affiliated Farm Credit bank to the extent required by subparagraphs (c)(5)(F) and (d)(1)(C)(v) of section 6.26 of the Act. The FAC must make the present value estimations, subject to our approval, based on an appropriate discount rate. The appropriate discount rate is the non-interest-bearing U.S. Treasury security rate for securities with a maturity as near as possible to the period remaining until the terminating association's obligations under this paragraph would be due (but before the due date).

§ 611.1265 Retirement of a terminating association's investment in its affiliated bank.

(a) *Safety and soundness restrictions.* Notwithstanding anything in this subpart to the contrary, we may prohibit a bank from retiring the equities you hold in the bank if the retirement would cause the bank to fall below its

regulatory capital requirements after retirement, or if we determine that the bank would be in an unsafe or unsound condition after retirement.

(b) *Retirement agreement.* Your affiliated bank may retire the purchased and allocated equities held by your institution in the bank according to the terms of the bank's capital revolving plan or an agreement between you and the bank.

(c) *Retirement in absence of agreement.* Your affiliated bank must retire any equities not subject to an agreement or revolving plan no later than when you or the successor institution pays off your loan from the bank.

(d) *No retirement of unallocated surplus.* When your bank retires equities you own in the bank, the bank must pay par or face value for purchased and allocated equities, less any impairment. The bank may not pay you any portion of its unallocated surplus.

(e) *Exclusion of equities from capital ratios.* If another Farm Credit institution makes an agreement to retire equities you hold in that institution after termination, we may require that institution to exclude part or all of those equities from assets and capital when the institution calculates its capital and net collateral ratios under subparts H and K of part 615 of this chapter.

§ 611.1270 Repayment of obligations—terminating bank.

(a) *General rule.* If your institution is a terminating bank, you must pay or make adequate provision for the payment of all outstanding debt obligations, and provide for your responsibility for any probable contingent liabilities identified.

(b) *Satisfaction of primary liability on consolidated or Systemwide obligations.* After consulting with the other Farm Credit banks, the Funding Corporation, and the FCSIC, you must pay or make adequate provision for payment of your primary liability on consolidated or Systemwide obligations in a method that we deem acceptable. Before we make a final decision on your proposal and as we deem necessary, we may consult with the other Farm Credit banks, the Funding Corporation, and the FCSIC.

(c) *Satisfaction of joint and several liability and liability for interest on individual obligations.* (1) You and the other Farm Credit banks must enter into an agreement, which is subject to our approval, covering obligations issued under section 4.2 of the Act and outstanding on the termination date. The agreement must specify how you and your successor institution will

make adequate provision for the payment of your joint and several liability to holders of obligations other than those obligations on which you are primarily liable, in the event we make calls for payment under section 4.4 of the Act. You and your successor institution must also provide for your liability under section 4.4(a)(1) of the Act to pay interest on the individual obligations issued by other System banks. As a part of the agreement, you must also agree that your successor institution will provide ongoing information to the Funding Corporation to enable it to fulfill its funding and disclosure duties. The Funding Corporation may, at its option, be a party to the agreement to the extent necessary to fulfill its duties with respect to financing and disclosure.

(2) If you and the other Farm Credit banks are unable to reach agreement within 90 days before the proposed termination date, we will specify the manner in which you will make adequate provision for the payment of the liabilities in question and how we will make joint and several calls for those obligations outstanding on the termination date.

(3) Notwithstanding any other provision in these regulations, the successor institution will be jointly and severally liable for consolidated and Systemwide debt outstanding on the termination date (other than the obligations on which you are primarily liable). The successor institution will also be liable for interest on other banks' individual obligations as described in section 4.4(a)(1) of the Act and outstanding on the termination date. The termination application must include evidence that the successor institution will continue to be liable for consolidated and Systemwide debt and for interest on other banks' individual obligations.

(d) *Payment to the FAC.* (1) Before termination, you must pay to the FAC the amounts required by section 6.9(e)(3)(C)(ii) of the Act and by subparagraphs (c)(5)(E)(i) and (d)(1)(C)(iv) of section 6.26 of the Act. To make the calculations for section 6.26, you must include your retail loan volume, the retail loan volume of the associations that are terminating with you, and the retail loan volume of the affiliated associations that continue their direct lending relationships with the successor institution, but you must not include the retail loan volume of associations that reaffiliate with another bank and transfer or repay their direct loan on or before termination.

(2) The FAC must make the present value estimations, subject to our

approval, based on an appropriate discount rate. The appropriate discount rate is the non-interest-bearing U.S. Treasury security rate for securities with a maturity as near as possible to the period remaining until your obligations under this paragraph would be due (but before the due date).

(3) If your bank or your predecessor bank has redeemed early any preferred stock issued to the FAC, we may require you to confirm in writing that your successor institution will assume responsibility for any and all of your contingent liabilities under any FAC-preferred stock redemption agreement and indemnification agreement.

§ 611.1275 Retirement of equities held by other System institutions.

(a) *Retirement at option of equity holder.* If your institution is a terminating institution, System institutions that own your equities have the right to require you to retire the equities on the termination date.

(b) *Value of equity holders' interests.* You must retire the equities in accordance with the liquidation provisions in your bylaws unless we determine that the liquidation provisions would result in an inequitable distribution to stockholders. If we make such a determination, we will require you to distribute the equity in accordance with another method that we deem equitable to stockholders. Before you retire any equity, you must make the following adjustments to the amount of stockholder equity as stated in the financial statements on the termination date:

(1) Make deductions for any FAC obligations and taxes due to the termination that you have not yet recorded;

(2) Deduct the amount of the exit fee; and

(3) Make any adjustments described under § 611.1250(c) that we may require as we deem appropriate.

(c) *Transfer of affiliated association's investment.* As an alternative to equity retirement, an affiliated association that reaffiliates with another Farm Credit bank instead of terminating with its bank has the right to require the terminating bank to transfer its investment to its new affiliated bank when it reaffiliates. If your institution is a terminating bank, at the time of reaffiliation you must transfer the purchased and allocated equities held by the association, as well as its share of unallocated surplus, to the new affiliated bank. Calculate the association's share before deduction of the exit fee as of the month end preceding the reaffiliation date (or the

termination date if it is the same as the reaffiliation date) in accordance with the liquidation provisions of your bylaws, unless we determine that the liquidation provisions would result in an inequitable distribution. If we make such a determination, we will require you to distribute the association's share of your unallocated surplus in accordance with another method that we deem equitable to stockholders. Before you distribute any unallocated surplus, you must make the following adjustments to stockholder equity as stated in the financial statements as of the month end preceding the reaffiliation date (or the termination date if it is the same as the reaffiliation date):

(1) Add back any deductions of FAC obligations due to the termination, taxes due to the termination, and the exit fee; and

(2) Make any adjustments described under § 611.1250(c) that we may require as we deem appropriate.

(d) *Prohibition on certain affiliations.* No Farm Credit institution may retain an equity interest otherwise prohibited by law in a successor institution.

§ 611.1280 Dissenting stockholders' rights.

(a) *Definition.* A dissenting stockholder is an equity holder (other than a System institution) in a terminating institution on the termination date who either:

(1) Was eligible to vote on the termination resolution and voted against termination;

(2) Was an equity holder on the voting record date but was not eligible to vote; or

(3) Became an equity holder after the voting record date.

(b) *Retirement at option of a dissenting stockholder.* A dissenting stockholder may require a terminating institution to retire the stockholder's equity interest in the terminating institution.

(c) *Value of a dissenting stockholder's interest.* You must pay a dissenting stockholder according to the liquidation provision in your bylaws, except that you must pay at least par or face value for eligible borrower stock (as defined in section 4.9A(d)(2) of the Act). If we determine that the liquidation provision is inequitable to stockholders, we will require you to calculate their share in accordance with another formula that we deem equitable.

(d) *Calculation of interest of a dissenting stockholder.* Before you retire any equity, you must make the following adjustments to the amount of stockholder equity as stated in the

financial statements on the termination date:

(1) Deduct any FAC obligations and taxes due to the termination that you have not yet recorded;

(2) Deduct the amount of the exit fee; and

(3) Make any adjustments described under § 611.1250(c) that we may require as we deem appropriate.

(e) *Form of payment to a dissenting stockholder.* You must pay a dissenting stockholder for his equities as follows:

(1) Pay cash for the par or face value of purchased stock, less any impairment;

(2) For equities other than purchased equities, you may:

(i) Pay cash;

(ii) Cause or otherwise provide for the successor institution to issue, on the date of termination, subordinated debt to the stockholder with a face value equal to the value of the remaining equities. This subordinated debt must have a maturity date of 7 years or less, must have priority in liquidation ahead of all equity, and must carry a rate of interest not less than the rate (at the time of termination) for debt of comparable maturity issued by the U.S. Treasury plus 1 percent; or

(iii) Provide for a combination of cash and subordinated debt as described above.

(f) *Payment to holders of special class of stock.* If you have adopted bylaws under § 611.1210(f), you must pay a dissenting stockholder who owns shares of the special class of stock an amount equal to the lower of the par (or face) value or the value of such stock as determined under § 611.1280(c) and (d).

(g) *Notice to equity holders.* The notice to equity holders required in § 611.1240(e) must include a form for stockholders to send back to you, stating their intention to exercise dissenters' rights. The notice must contain the following information:

(1) A description of the rights of dissenting stockholders set forth in this section and the approximate value per share that a dissenting stockholder can expect to receive. State whether the successor institution will require borrowers to be stockholders or whether it will require stockholders to be borrowers.

(2) A description of the current book and par value per share of each class of equities, and the expected book and market value of the stockholder's interest in the successor institution.

(3) A statement that a stockholder must return the enclosed form to you within 30 days if the stockholder chooses to exercise dissenters' rights.

(h) *Notice to subsequent equity holders.* Equity holders that acquire their equities after the termination vote must also receive the notice described in paragraph (g) of this section. You must give them at least 5 business days to decide whether to request retirement of their stock.

(i) *Reconsideration.* If a reconsideration vote is held and the termination is disapproved, the right of stockholders to exercise dissenters' rights is rescinded. If a reconsideration vote is held and the termination is approved, you must retire the equities of dissenting stockholders as if there had been no reconsideration vote.

§ 611.1285 Loan refinancing by borrowers.

(a) *Disclosure of credit and loan information.* At the request of a borrower seeking refinancing with another System institution before you terminate, you must give credit and loan information about the borrower to such institution.

(b) *No reassignment of territory.* If, at the termination date, we have not assigned your territory to another System institution, any System institution may lend in your territory, to the extent otherwise permitted by the Act and the regulations in this chapter.

§ 611.1290 Continuation of borrower rights.

You may not require a waiver of contractual borrower rights provisions as a condition of borrowing from and owning equity in the successor institution. Institutions that become other financing institutions on termination must comply with the applicable borrower rights provisions in the Act and subparts K, L, and N of part 614 of this chapter.

PART 614—LOAN POLICIES AND OPERATIONS

3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5, of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a-2, 2279b, 2279c-1, 2279f, 2279f-1, 2279aa, 2279aa-5); sec. 413 of Pub. L. 100-233, 101 Stat. 1568, 1639.

Subpart C—Bank/Association Lending Relationship**§ 614.4130 [Amended]**

4. Amend § 614.4130 by removing the reference “§ 611.1205(c)” and adding in its place the reference “§ 611.1205” in paragraph (a).

Dated: April 5, 2002.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 02–8711 Filed 4–11–02; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 98–NM–196–AD; Amendment 39–12702; AD 2002–07–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires repetitive inspections to find cracking of the lower skin at the lower row of fasteners in the lap joints of the fuselage, and repair of any cracking found. That amendment also requires modification of the fuselage lap joints at certain locations, which constitutes terminating action for repetitive inspections of the modified areas. This amendment adds repetitive inspections and requires replacement of the current preventive modification with an improved modification. This amendment is prompted by the FAA’s determination that, in light of additional crack findings, certain modifications of the fuselage lap joints do not provide an adequate level of safety. The actions specified by this AD are intended to find and fix cracking of the fuselage lap joints, which could result in sudden decompression of the airplane.

DATES: Effective May 17, 2002.

The incorporation by reference certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of May 17, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle,

Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Scott Fung, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–1221; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–22–07, amendment 39–10179 (62 FR 55732, October 28, 1997), which is applicable to certain Boeing Model 737 series airplanes, was published in the **Federal Register** on July 12, 2001 (66 FR 36509). The action proposed to continue to require repetitive inspections to find cracking of the lower skin at the lower row of fasteners in the lap joints of the fuselage, and repair of any cracking found. That action also adds a requirement for modification of the fuselage lap joints at certain locations, which constitutes terminating action for repetitive inspections of the modified areas. That action also adds new repetitive inspections and requires replacement of the current preventive modification with an improved modification.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter supports the intent of the proposed rule. Another commenter states that the proposed rule does not affect its fleet.

Typographical Error

One commenter states that in the section titled, “Other Relevant Proposed Rulemaking,” specified in the proposed rule, the line numbers listed for replacement of certain Structural Repair Manual (SRM) repairs are line numbers 292 through 2595 inclusive. The commenter notes that the correct reference is line numbers 292 through 2565 inclusive. The FAA agrees that a typographical error was made in that section, however, that section is not carried over to the final rule so no change is necessary.

Clarify Paragraphs (a) and (g)

One commenter states that the repetitive low frequency eddy current

inspections (LFEC) of the crown areas as specified in paragraph (a) of the proposed rule need clarification. The commenter notes that the crown areas are not defined in the proposed rule and Part 1.E.1. (“Compliance”) of Boeing Service Bulletin 737–53A1177, Revision 6, dated May 31, 2001 (specified in the proposed rule as the source of service information for doing the specified actions), defines the areas to be inspected. The commenter adds that the lap joint modification (repair) in the crown areas, as specified in paragraph (g) of the proposed rule, needs clarification. The commenter notes that the crown areas are not defined in the proposed rule and Part 1.E.1. (“Compliance”) of the service bulletin defines the areas to be inspected.

The FAA agrees that inclusion of references to Part 1.E.1. (“Compliance”) in paragraphs (a) and (g) of this final rule provides clarification of the crown lap joint areas to be inspected. We have changed paragraphs (a) and (g) of the final rule accordingly.

Credit for Previously Accomplished Modifications

Two commenters ask that paragraph (g) of the proposed rule be changed to include credit for lap joint modifications (repairs) accomplished per the instructions described in Boeing Service Bulletin 737–53A1177, Revision 4, dated September 2, 1999, or Revision 5, dated February 15, 2001. One commenter adds that this would terminate the post-NACA-modification inspections required by paragraph (i) of the proposed rule.

We agree that accomplishment of the lap joint modification (repairs) per Revision 4 or 5 of the referenced service bulletin meets the requirements specified in paragraph (g) of the final rule and terminates the repetitive post-NACA-modification inspections required by paragraph (i) of the final rule, as those revisions are technically equivalent to the modification specified in Revision 6 of the service bulletin. We have changed paragraph (g) of the final rule accordingly.

Change Paragraph (g)(5)

One commenter asks that paragraph (g)(5) of the proposed rule, for airplanes having a NACA modification per Boeing Alert Service Bulletin 737–53A1177, Revision 3, dated September 18, 1997, be changed to include airplanes that have been modified per Revision 1, dated September 19, 1996, or Revision 2, dated July 24, 1997, of that service bulletin.

We agree that airplanes having a NACA modification per Revision 1 or 2

of the service bulletin meet the requirements specified in paragraph (g)(5) of the final rule. The modification in those revisions is technically equivalent to the modification specified in Revision 3 of the service bulletin. We have changed paragraph (g)(5) of the final rule accordingly.

Clarify Repair Instructions for 737 Cargo Airplanes

One commenter states that paragraph (g) of the proposed rule does not address a certain lap joint repair for Model 737–200C series airplanes, Groups 3 and 5, as specified in Revisions 4, 5, and 6 of the service bulletin. The commenter notes that Part 1.E.1. (“Compliance”) of the service bulletin instructs operators to contact Boeing for repair instructions for stringers 4R and 10R. The commenter asks that a new paragraph be added with repair instructions for that area.

We agree and have changed paragraph (g) of the final rule to exclude repair per the service bulletin for certain 737–200C series airplanes. We also added a new paragraph (h) to this final rule (and renumbered subsequent paragraphs) to specify repair instructions for stringers 4R and 10R on Groups 3 and 5 airplanes.

Clarify Paragraph (h)

One commenter states that the repetitive LFEC inspections outside the crown areas as specified in paragraph (h) of the proposed rule need clarification. The commenter notes that the areas outside the crown lap joints are not defined in the proposed rule and Part 1.E.2. (“Compliance”) of Boeing Service Bulletin 737–53A1177, Revision 6, defines the areas to be inspected. The commenter adds that the instructions specified in paragraph (h) of the proposed rule are for operators to inspect for cracking at lap joints identified in Figures 2 through 7 of the referenced service bulletin. The commenter notes that Figure 7 addresses inspection of Group 6 airplanes (737–200 and 737–200C series airplanes, line numbers 1 through 291 inclusive), and those airplanes are not subject to the requirements of this AD.

We agree that inclusion of a reference to Part 1.E.2. (“Compliance”) of the service bulletin provides clarification of the areas outside the crown lap joints to be inspected. We also agree that Group 6 airplanes are not subject to the requirements of this AD and have been addressed in another rulemaking action. Therefore, paragraph (i) of the final rule (which was paragraph (h) in the proposed rule) includes a reference to Part 1.E.2. (“Compliance”) of the service

bulletin, and includes no reference to Figure 7 of the service bulletin.

Clarify Paragraph (i)

One commenter asks that paragraph (i) of the proposed rule include clarification of the areas that require post-accomplishment inspections for the NACA modifications in the crown areas as specified in Part 1.E.4.a. (“Compliance”) of Revision 6 of the service bulletin. The commenter also asks that accomplishment of the NACA modification per PART III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1177, Revision 1, dated September 19, 1996; Revision 2, dated July 24, 1997; or Revision 3, dated September 18, 1997; be accepted.

We agree that inclusion of a reference to Part 1.E.4.a. (“Compliance”) of the service bulletin provides clarification of the areas in the crown lap joints to be inspected. We also agree that inclusion of Revisions 1, 2, and 3 of the service bulletin into paragraph (j) of the final rule clarifies the service bulletins that can be used to do the NACA modification. Paragraph (j) of the final rule (which was paragraph (i) in the proposed rule) includes a reference to Part 1.E.4.a. (“Compliance”) of the service bulletin.

Clarify Paragraph (j)

One commenter asks that paragraph (j) of the proposed rule include clarification of the areas that require post-accomplishment inspections for the NACA modifications outside the crown areas as specified in Part 1.E.4.b. (“Compliance”) of Revisions 1, 2, and 3 of the service bulletin. The commenter also asks that accomplishment of the NACA modification per PART III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1177, Revision 1, dated September 19, 1996; Revision 2, dated July 24, 1997; or Revision 3, dated September 18, 1997, be accepted.

We agree that inclusion of a reference to Part 1.E.4.b. (“Compliance”) provides clarification of the areas outside the crown lap joints to be inspected. We also agree that inclusion of reference to Revisions 1, 2, and 3 of the service bulletin in paragraph (j) of the final rule clarifies the service bulletins that can be used to do the NACA modification. Paragraph (k) of this final rule (which was paragraph (j) in the proposed rule) includes a reference to Part 1.E.4.b. (“Compliance”) of the service bulletin.

Clarify Paragraph (l)

One commenter states that paragraph (l) of the proposed rule (“Follow-on

LFEC Inspections”) should reference Part 1.E.7. (“Compliance”) of the referenced service bulletin and should instruct operators to do the external inspection per the 737 Nondestructive Test (NDT) Manual, Part 6, Chapter 53–30–00, Figure 5.

We agree that inclusion of a reference to Part 1.E.7. (“Compliance”) provides clarification of the area for the external inspection as specified in the 737 NDT Manual. However, we do not agree to instruct operators to do the external inspection per the 737 NDT Manual. Part 1.E.7. (“Compliance”) of the service bulletin references the 737 NDT Manual, which addresses the commenter’s concerns. Paragraph (m) of the final rule (which was paragraph (l) in the proposed rule) includes a reference to Part 1.E.7. (“Compliance”) of the service bulletin.

Clarify Paragraph (m)

One commenter asks that paragraph (m) of the proposed rule, (“Repetitive High Frequency Eddy Current (HFEC) Inspections—Window Corners”), be changed to reference Part 1.E.10. (“Compliance”) of the referenced service bulletin to define the procedures necessary for inspecting the fuselage skin adjacent to the window corners that have not been modified.

We agree that inclusion of a reference to Part 1.E.10 (“Compliance”) provides clarification of the inspection procedures necessary for doing the HFEC inspections of the window corners. Paragraph (n) of the final rule (which was paragraph (m) in the proposed rule) includes a reference to Part 1.E.10 (“Compliance”) of the service bulletin.

Another commenter states that the repair and modification instructions specified in paragraph (m) of the proposed rule are not clear for those operators who have already installed the lap joint doublers in the corresponding area of the window belt. The commenter adds that, as written, it is unable to determine that the terminating modification for uncracked window corners consists of oversizing the fastener holes and installing Hi-lok fasteners. The commenter asks for further review of the proposed rule given additional circumstances and questions from operators who have already met the intent of the modification specified in Boeing Service Bulletin 737–53A1177, Revision 5, dated February 15, 2001.

We agree that clarification of the repair and modification instructions specified in paragraph (m) of the proposed rule is necessary. Therefore, we have added that the modification

includes removing and discarding fasteners, oversizing fastener holes, and installing rivets or Hi-Lok fasteners, as applicable. We also agree that accomplishment of the modification per Revision 5 of the referenced service bulletin meets the requirements for the modification specified in paragraph (n) of the final rule. This terminates the repetitive inspections for operators who have accomplished the required actions per either of those service bulletins. Paragraph (n) of the final rule (which was paragraph (m) in the proposed rule) has been changed accordingly.

Extend Compliance Time in Paragraph (m)

One commenter, the airplane manufacturer, asks that the compliance time for the initial and repetitive inspections specified in paragraph (m) of the proposed rule be extended. The commenter states that the 1,200-flight-cycle threshold specified is the same inspection threshold specified for lap joint lower row cracking in paragraph (a) of the proposed rule. The commenter notes that the cracking of the holes of the window corner is much less critical than the cracking of the lap joint lower row, so it finds a less-restrictive inspection threshold is acceptable for the window corner cracking. The commenter adds that fleet data on cracking of the holes of the window corner show that such cracking is not extensive on airplanes with less than 60,000 total flight cycles, and that information supports an inspection threshold of 2,250 flight cycles after the effective date of the AD for airplanes with less than 60,000 total flight cycles.

We agree with the commenter that the cracking of the window corner is less critical than cracking of the lap joint lower row; however, the fleet data to date indicate that cracking can occur on airplanes with fewer than 50,000 total flight cycles. Therefore, we have changed the initial inspection threshold required by paragraph (n) of the final rule (which was paragraph (m) in the proposed rule) to read, "Before the accumulation of 50,000 total flight cycles or within 2,250 flight cycles after the effective date of this AD, whichever comes later. * * *

A second commenter suggests an extension of the threshold for the inspections to "Before the accumulation of 60,000 total flight cycles or within 5,500 flight cycles after the effective date of the AD, whichever occurs later." The commenter states that this will allow operators that have done the post-modification a reasonable opportunity to meet the intent of the new requirement specified in Part V

(window corner inspection) of Revision 5 or 6 of the referenced service bulletin. The commenter adds that its data indicates that the window corner cracking is largely due to pressurization cycles. The commenter's operations are such that its airframe cycles are of relatively low-pressure differential, and very short duration.

A third commenter asks that the 1,200-flight-cycle threshold be elevated to 5,000 flight cycles so that the initial inspection and the preventative modification of the window corner on its airplanes can be accomplished at the same time as the lap joint modification. The commenter states that it has approximately 25 airplanes that are over 50,000 flight cycles that have not accomplished the window corner inspection or lap joint repairs. The commenter adds that a compliance interval of 1,200 flight cycles will require the airlines to bring in those airplanes for inspection within a 3-month timeframe, without the ability to accomplish the preventative modifications.

The same commenter asks that the compliance time for the initial inspection of the window belts be required within 10,000 flight cycles after the effective date of the AD, or 20,000 flight cycles after accomplishment of the lap joint repairs, whichever occurs first. The commenter states that the structural integrity for airplanes on which the lap joint repairs have been done has already been improved, which justifies changing the compliance time.

A fourth commenter suggests that the inspection be accomplished before the accumulation of 50,000 total flight cycles or within 4,500 flight cycles after the effective date of the AD, whichever occurs later. The commenter states that this will allow operators to schedule the inspection into a "C" check visit. The commenter adds that, for airplanes with 50,000-plus total flight cycles, the 1,200-flight-cycle threshold for the initial inspection will place a significant burden on operators that have already accomplished the skin lap modifications because the inspection will have to be accomplished outside a scheduled maintenance visit.

We do not agree to extend the compliance threshold for the initial inspection further, per the above requests from the second, third, and fourth commenters. We have already considered factors such as operators' maintenance schedules in setting a compliance time for the required modification, and have determined that an inspection threshold of 2,250 flight cycles is an appropriate compliance

time in which the inspection may be accomplished during scheduled airplane maintenance for the majority of affected operators. Since maintenance schedules vary from operator to operator, it would not be possible to guarantee that all affected airplanes could be modified during scheduled maintenance, even with a compliance threshold of 2,250 flight cycles. In any event, we find that this threshold represents the maximum time wherein the affected airplanes may continue to operate prior to inspection without compromising safety. No further change to the final rule is necessary in this regard.

Extend Compliance Time in Paragraph (i)

One commenter asks that the compliance threshold in paragraph (i) of the proposed rule be changed. The commenter states that it has one airplane on which the preventative change of the crown lap joint stringers has been done, and that airplane will have flown more than 12,000 flight cycles when this final rule is effective. The commenter asks for an alternate initial inspection threshold in paragraph (i) of the proposed rule to avoid immediate grounding of that airplane when the final rule is issued. The commenter asks that a provision be added which states, "* * * if an airplane has reached the 12,000 flight cycle limit, the initial inspection must be done within 6 months or 1,500 flight cycles, whichever occurs later, after the effective date of the AD."

We acknowledge the need for operators with airplanes that have exceeded the 12,000 flight cycle limit to have ample time to accomplish the initial inspection required by paragraph (j) of the final rule (which was paragraph (i) in the proposed rule). Paragraph (k) of this final rule (which was paragraph (j) in the proposed rule) has a similar compliance threshold. Therefore, we have changed paragraphs (j) and (k) of this final rule to add a grace period, "* * * or within 750 flight cycles after the effective date of this AD, whichever is later."

Add Previous Alternative Methods of Compliance (AMOC)

One commenter asks that paragraph (n) of the proposed rule be changed to add a paragraph for previously approved AMOCs for AD 97-22-07, amendment 39-10179.

We agree to change paragraph (o) of the final rule (which was paragraph (n) in the proposed rule) to add a new paragraph (o)(2) for AMOCs previously approved for AD 97-22-07 that are

approved for certain paragraphs in this AD.

Eliminate References to Bear Strap Areas

One commenter, the airplane manufacturer, states that, since the release of Revision 6 of the referenced service bulletin, its review suggests that the cracking of the skin and doublers common to the bear strap around the entry and service doors may be caused by hinge cutouts, and may not be related to the typical cracking of the lower row of the lap splice. The commenter submits this comment for FAA review and consideration.

We infer that the commenter wants to eliminate all references to the areas that are common to the bear strap around the entry and service doors, as specified in the proposed rule. We do not agree. The commenter has not provided substantiating data for its request. We may eliminate these areas from the requirements of the final rule in future rulemaking if data are submitted showing that cracking in these areas is definitely caused by hinge cutouts. No change to the final rule is necessary in this regard.

Delete Paragraph (f)

Two commenters ask that the compliance plan requirement specified in paragraph (f) of the proposed rule be deleted.

One commenter states that the inclusion of paragraph (f) does nothing to address the safety issue for which the proposed rule is being written, and asks that it be deleted from the final rule. Another commenter does not consider the requirements of paragraph (f) an airworthiness issue and states that it should not be included as such in the final rule. The commenter adds that the letter check does not determine if an airplane is airworthy, and the airplanes on which the actions required by paragraph (g) of the proposed rule have been done, as well as the airplanes on which the actions are not required in the near future, are not excluded from paragraph (f). The commenter also states that a simple forecast report with estimated due dates based on average airplane utilization cycles can be provided to the Principle Maintenance Inspector upon request.

We partially agree with the commenters, as follows:

We do not agree to delete paragraph (f) of the final rule. As specified in the preamble of the proposed rule, we recognize that doing the lap joint modification will require a lengthy maintenance visit, within a relatively short compliance time. This makes it necessary for operators to do compliance planning to ensure that when the compliance deadline is reached all the required actions have been done on all affected airplanes. Although plans and schedules can change over time, a compliance plan ensures that the operator is aware of the complexity of the actions required by this final rule at the start rather than at the end of the compliance period.

We agree that the requirements specified in paragraph (f) of the final rule can be changed to exclude operators that have previously done the modification required by either paragraph (g) or (h) of the final rule; and by revising the requirement to provide dates and maintenance events (e.g., letter checks) to just estimated dates, for operators that have not yet done the required actions. Paragraph (f) of the final rule has been changed accordingly.

Change Cost Impact Information

Two commenters ask that the cost impact section of the proposed rule be changed.

One commenter states that the cost impact to the industry is underestimated in the proposed rule. The commenter notes that, after accomplishing the lap joint modifications on some of its fleet, it found that the cost estimates and man hours were 30–40% higher than the estimate in the proposed rule. The commenter adds that the amount of time required for access and close-up equates to approximately 4 additional days of downtime in which no revenue can be generated. The commenter also states that the estimate of 14 hours to accomplish the window corner inspections is on the condition that it is done in conjunction with the lap joint modifications, and does not account for fastener removal. If the inspection is done separately, the access and close-up time would take at least one week.

Another commenter also asks that the time required for access and close-up be added to the proposed rule. The commenter notes that the cost impact is particularly useful to operators and the public when a proposed compliance period would not allow accomplishment of the actions during a scheduled intermediate or heavy maintenance visit. The commenter adds that in such cases, access and close-up are direct requirements of, and are solely attributable to, the proposed rule, and in some cases the out-of-service time and other impacts of unscheduled access and close-up may account for nearly all of the actual economic impact. The commenter recommends a re-evaluation of the cost impact estimated in the proposed rule.

We do not agree that the cost impact section of the final rule should be changed to add in the work hours and cost for access, close-up, and fastener removal. The cost estimates for the actions required by this final rule are estimated over the life of the AD, which is approximately 20–25 years. The cost impact section of the final rule references paragraph 1.G. of the service bulletin for more detailed information, and that section includes, among other things, time necessary for access, close-up, and fastener removal. Therefore, no change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,203 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 905 airplanes of U.S. registry will be affected by this AD.

Cost estimates for the actions required by this AD for U.S. operators over the life of the AD are included in the following table:

Paragraph/AD action	Number affected	Work hours	Parts (\$)	Cost/Airplane (\$)	Total Cost (\$)
(a) Lap joint inspection	905	100	0	6,000	5,430,000
(f) Compliance planning	905	24	0	1,440	1,303,200
(g) Lap joint modification	905	4,200	12,000	264,000	238,920,000

Paragraph/AD action	Number affected	Work hours	Parts (\$)	Cost/Airplane (\$)	Total Cost (\$)
(h) Lap joint inspection	905	100	0	6,000	5,430,000
(i) Post-NACA inspection	25	100	0	6,000	150,000
(j) Post-NACA inspection	10	100	0	6,000	60,000
(m) Window corner inspection	807	14	0	840	677,880

The cost estimates are based on the following criteria:

- Lap joint inspection cost estimates reflect costs for a single inspection cycle, and the work hours vary between groups of airplanes. Refer to paragraph 1.G. of Boeing Service Bulletin 737-53A1177 for more detailed information. An average of 100 work hours was used in determining the cost estimates.
- An average of 24 work hours was used in estimating the costs for compliance planning.
- Lap joint modification work hours vary between groups of airplanes. Refer to paragraph 1.G of Boeing Service Bulletin 737-53A1177 for more detailed information. An average of 4,200 work hours and \$12,000 for parts were used in estimating these costs. Modification costs are spread over the estimated life of the AD, which is approximately 20 to 25 years.
- Window corner inspection work hours vary between groups of airplanes. Refer to paragraph 1.G of Boeing Service Bulletin 737-53A1177 for more detailed information. An average of 14 work hours was used in estimating the costs of the inspections only.

The FAA estimates that during the 10-year period after issuance of this AD, worldwide operators will be required to modify 805 Model 737 series airplanes. The new modification required by this AD will take an average of approximately 4,200 work hours to accomplish, at an average labor rate of \$60 per work hour. The worldwide cost impact of the required modification is estimated to be \$212,701,000 over 10 years, or an average of \$21,270,000 per year. The highest impact year is the third year after issuance of the AD: an estimated 155 Model 737 series airplanes will require modification in that year. Therefore, the worldwide cost impact of the modification is estimated to be \$40,955,000 in that year. The affected Model 737 airplanes operated by U.S. operators comprise approximately 41 percent of the total worldwide costs. Therefore, the highest cost impact in any given year for the modifications is estimated to be \$16,791,000 for U.S. operators.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-10179 (62 FR 55732, October 28, 1997), and by adding a new airworthiness directive (AD), amendment 39-12702, to read as follows:

2002-07-08 Boeing: Amendment 39-12702. Docket 98-NM-196-AD. Supersedes AD 97-22-07, Amendment 39-10179.

Applicability: Model 737-200, -200C, -300, -400, and -500 series airplanes having line numbers 292 through 2565 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (o)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of certain fuselage lap joints, which could result in sudden decompression of the airplane, accomplish the following:

Repetitive Low Frequency Eddy Current (LFEC) Inspections—Crown Areas

(a) Do an LFEC inspection to find cracking of the lower skin at the lower row of fasteners in the lap joints of the fuselage as specified in Part 1.E.1. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001; per PART I ("Inspection") of the Accomplishment Instructions of the service bulletin; at the time specified in paragraph (b) or (c) of this AD, as applicable.

(b) For airplanes that have accumulated more than 65,000 total flight cycles but not

more than 70,000 total flight cycles as of the effective date of this AD: Do the inspection at the earlier of the times specified in paragraphs (b)(1) and (b)(2) of this AD. Repeat the inspection after that at intervals not to exceed 1,200 flight cycles until accomplishment of the lap joint repair required by paragraph (g) of this AD.

(1) Within 1,200 flight cycles after the effective date of this AD.

(2) Within 1,200 flight cycles after the last inspection, if any, accomplished in accordance with AD 97-22-07, amendment 39-10179.

(c) For airplanes that have accumulated at least 45,000 total flight cycles but not more than 65,000 total flight cycles as of the effective date of this AD: Do the inspection at the earlier of the times specified in paragraphs (c)(1) and (c)(2) of this AD. Repeat the inspection after that at intervals not to exceed 1,200 flight cycles until accomplishment of the lap joint repair required by paragraph (g) of this AD.

(1) At the later of the times specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD.

(i) Before the accumulation of 50,000 total flight cycles.

(ii) Within 1,200 flight cycles after the effective date of this AD.

(2) Within 1,200 flight cycles after the last inspection, if any, accomplished in accordance with AD 97-22-07, amendment 39-10179.

Crack Repair

(d) Except as provided by paragraph (e) of this AD: If any cracking is found during any inspection required by this AD, before further flight, repair per PART II ("Crack Repair") of the Accomplishment Instructions of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001.

(e) If any cracking is found during any inspection required by this AD, and Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, specifies to contact Boeing for repair instructions: Repair any cracking, before further flight, per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Compliance Plan

(f) For airplanes on which the applicable lap joint modification as required by paragraph (g) or (h) of this AD, as applicable, has not been done as of the effective date of this AD: Within 3 months after the effective date of this AD, submit a plan to the FAA identifying a schedule for compliance with paragraph (g) and (h) of this AD, as applicable. This schedule must include, for each of the operator's affected airplanes, the estimated dates when the required actions will be accomplished. For the purposes of this paragraph, "FAA" means the Principal Maintenance Inspector (PMI) for operators

that are assigned a PMI, or the cognizant Flight Standards District Office for other operators. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

Note 2: Operators are not required to submit revisions to the compliance plan required by paragraph (f) of this AD to the FAA.

Lap Joint Modification (Repair)—Crown Areas

(g) Except as provided by paragraph (h) of this AD: Install the lap joint repair as specified in Part 1.E.1. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 4, dated September 2, 1999; Revision 5, dated February 15, 2001; or Revision 6, dated May 31, 2001; per PART III or IV ("Lap Joint Repair"), as applicable, of the Accomplishment Instructions of the applicable service bulletin; at the time specified in paragraph (g)(1), (g)(2), (g)(3), (g)(4), or (g)(5) of this AD, as applicable. Accomplishment of this repair terminates the repetitive inspections required by paragraphs (b), (c), and (j) of this AD.

(1) For airplanes that have accumulated 70,000 total flight cycles or more as of the effective date of this AD: Within 600 flight cycles after the effective date of this AD, do the lap joint repair.

(2) For airplanes that have accumulated 65,000 total flight cycles or more, but less than 70,000 total flight cycles as of the effective date of this AD: Do the repair at the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Before the accumulation of 70,000 total flight cycles.

(ii) Within 600 flight cycles after the effective date of this AD.

(3) For airplanes that have accumulated 45,000 total flight cycles or more, but less than 65,000 total flight cycles as of the effective date of this AD: Within 5,000 flight cycles after the effective date of this AD.

(4) For airplanes that have accumulated less than 45,000 total flight cycles as of the effective date of this AD: Before the accumulation of 50,000 total flight cycles.

(5) Notwithstanding the times specified in paragraphs (g)(1), (g)(2), (g)(3), and (g)(4) of this AD, for airplanes on which the "Preventive Change" (NACA modification) has been accomplished per PART III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1177, Revision 1, dated September 19, 1996; Revision 2, dated July 24, 1997; or Revision 3, dated September 18, 1997: Within 18,000 flight cycles after accomplishment of the NACA modification.

(h) For Groups 3 and 5 airplanes as listed in Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001: Install the lap joint repair at stringers 4R and 10R, as specified in Part 1.E.1. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001; at the time specified in paragraph (g)(1), (g)(2), (g)(3), (g)(4), or (g)(5) of this AD, as applicable; per a method approved by the Manager, Seattle

ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Repetitive LFEC Inspections—Outside Crown Areas

(i) Before the accumulation of 70,000 total flight cycles, or within 2,500 flight cycles after the effective date of this AD, whichever comes later: Do an LFEC inspection to find cracking of the lap joints of the fuselage, as specified in Part 1.E.2. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, and as identified in Figures 2 through 6 of the Accomplishment Instructions of the service bulletin. Do the inspection per the service bulletin. Repeat the inspection after that at intervals not to exceed 5,000 flight cycles.

Post-NACA Modification Inspections—Crown Areas

(j) For airplanes that have the "Preventive Change" (NACA modification) of the crown lap joint stringers ("Crown Laps") done per PART III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1177, Revision 1, dated September 19, 1996; Revision 2, dated July 24, 1997; or Revision 3, dated September 18, 1997: Within 12,000 flight cycles after accomplishment of the NACA modification, or within 750 flight cycles after the effective date of this AD, whichever is later, do either an external (Figure 8) or internal (Figure 9) LFEC inspection to find cracking and corrosion as specified in Part 1.E.4.a. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001; per PART I ("Inspection") of the Accomplishment Instructions of Revision 6 of the service bulletin.

(1) If the external inspection is done: Repeat the inspection after that at intervals not to exceed 1,500 flight cycles until accomplishment of the lap joint repair required by paragraph (g) of this AD.

(2) If the internal inspection is done: Repeat the inspection after that at intervals not to exceed 4,500 flight cycles until accomplishment of the lap joint repair required by paragraph (g) of this AD.

Post-NACA Modification Inspections—Outside Crown Areas

(k) For airplanes that have the "Preventive Change" (NACA modification) outside the crown areas done per PART III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1177, Revision 1, dated September 19, 1996; Revision 2, dated July 24, 1997; or Revision 3, dated September 18, 1997: Before the accumulation of 20,000 flight cycles after accomplishment of the NACA modification or within 750 flight cycles after the effective date of this AD, whichever is later, do either an external (Figure 8) or internal (Figure 9) LFEC inspection to find cracking and corrosion as specified in Part 1.E.4.b. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, per PART I

("Inspection") of the Accomplishment Instructions of Revision 6 of the service bulletin.

(1) If the external inspection is done: Repeat the external inspection after that at intervals not to exceed 1,500 flight cycles.

(2) If the internal inspection is done: Repeat the internal inspection after that at intervals not to exceed 4,500 flight cycles.

Modification of Tear Strap Splice Straps

(l) For airplanes that have the "lap joint repair," as specified in Part IV of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1177, Revision 2, dated July 24, 1997, or Revision 3, dated September 18, 1997: Within 45,000 flight cycles after accomplishment of this lap joint repair, modify the splice straps per Figures 10, 11, and 12 of the Accomplishment Instructions of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001.

Follow-On LFEC Inspections

(m) Within 45,000 flight cycles after accomplishment of the lap joint repair required by paragraph (g) or (h) of this AD, as applicable: Do either an external or internal (Figure 9) LFEC inspection as specified in Part 1.E.7. ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, to find cracking of the lap joint repair, per PART I ("Inspection") of the Accomplishment Instructions of the service bulletin. Repeat the inspection after that at intervals not to exceed 2,800 flight cycles.

Repetitive High Frequency Eddy Current (HFEC) Inspections—Window Corners

(n) For airplanes having line numbers 520 through 2565 inclusive: Before the accumulation of 50,000 total flight cycles or within 2,250 flight cycles after the effective date of this AD, whichever comes later, do an HFEC inspection to find cracking as specified in Part 1.E.10 ("Compliance") of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, per PART V ("Window Corner Fastener Hole Cracking, Inspection and Repair") of the Accomplishment Instructions of the service bulletin. Repeat the inspection after that at intervals not to exceed 4,500 flight cycles. Accomplishment of the modification (which includes removing and discarding fasteners, oversizing fastener holes, and installing rivets or Hi-Lok fasteners, as applicable), per PART V of the Accomplishment Instructions of Boeing Service Bulletin 737-53A1177, Revision 5, dated February 15, 2001, or Revision 6, dated May 31, 2001, constitutes terminating action for the inspections required by this paragraph.

Alternative Methods of Compliance

(o)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved in accordance with AD 97-22-07, amendment 39-101-79 are approved as

alternative methods of compliance with paragraphs (a), (b), (d), (e), (g), and (i) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(p) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(q) Except as provided by paragraphs (e), (f), and (h) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 737-53A1177, Revision 4, dated September 2, 1999; Boeing Service Bulletin 737-53A1177, Revision 5, dated February 15, 2001; or Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, as applicable. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(r) This amendment becomes effective on May 17, 2002.

Issued in Renton, Washington, on April 2, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-8454 Filed 4-11-02; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-105-AD; Amendment 39-12703; AD 2002-07-09]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 727, 727C, 727-100, 727-100C, 727-200, and 727-200F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 727, 727C, 727-100, 727-100C, 727-200, and

727-200F series airplanes, that currently requires repetitive inspections to find cracking of the lower skin panel at the lower row of fasteners in certain lap joints of the fuselage, and repair, if necessary. This amendment limits the applicability of the existing AD, adds certain repetitive inspections, revises certain compliance times, and adds certain modifications. This amendment is prompted by the FAA's determination that, in light of additional crack findings, certain modifications of the fuselage lap joints are necessary. The actions specified by this AD are intended to find and fix fatigue cracking of the fuselage lap joints, which could result in sudden fracture and failure of the lower skin lap joints, and rapid decompression of the airplane.

DATES: Effective May 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 17, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walt Sippel, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2774; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 99-04-22, amendment 39-11047 (64 FR 7774, February 17, 1999), which is applicable to all Boeing Model 727, 727-100, 727-200, 727C, 727-100C, and 727-200F series airplanes, was published in the **Federal Register** on July 12, 2001 (66 FR 36516). The action proposed to continue to require repetitive inspections to find cracking of the lower skin panel at the lower row of fasteners in certain lap joints of the fuselage, and repair, if necessary. The action also proposed to limit the applicability of the existing AD, add certain repetitive inspections, revise certain compliance times, and add certain modifications.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Clarify Compliance Time Paragraph (d)(2)

Several commenters request that paragraph (d)(2) of the proposed rule be changed to include the phrase "whichever is later" at the end of the specified compliance time.

The FAA agrees with the commenters, as "whichever is later" was inadvertently omitted from the paragraph (d)(2) of the proposed rule. We have clarified the compliance time in paragraph (d)(2) of the final rule to state, "Accomplish the modification prior to 55,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever is later."

Credit for Original Issue of Service Bulletin

One commenter asks that credit be given for actions done in accordance with Boeing Alert Service Bulletin 727-53A0222, dated July 27, 2000. Boeing Service Bulletin 727-53A0222, Revision 1, including Appendix A, dated March 15, 2001, was cited in the proposed rule as the appropriate source of service information for accomplishment of certain actions.

The FAA agrees, as there are no major changes between the original issue and Revision 1 of the service bulletin. We have inserted a new Note 5 in the final rule that gives credit for inspections done per the original issue of the service bulletin. Subsequent notes have been renumbered accordingly.

Editorial Changes

Editorial changes to the proposed rule as requested by one commenter are specified below, and the FAA responses follow:

- A statement should be added to the final rule specifying that it supersedes the actions specified in AD 99-04-22. As written, compliance is required with both the old AD and the new proposed rule, when obviously the new rule supersedes the old rule.

We do not agree. The preamble of the proposed rule states that it is a supersedure of AD 99-04-22, and throughout the preamble the reasons for superseding that AD are discussed at length. No change to the final rule is necessary in this regard.

- The heading preceding paragraph (a) of the proposed rule should be changed from "Repetitive Inspections"

to "Inspections" or "Initial and Repetitive Inspections." The existing heading implies the initial inspections are not included when in fact they are.

We agree and have changed the heading for paragraph (a) of this final rule to "Initial and Repetitive Inspections."

- Paragraph (a) of the proposed rule omits the inspection method. The proposed AD should add the method as follows, "Inspections should be accomplished per Part I of the Accomplishment Instructions of Boeing Service Bulletin 727-53A0222, Revision 1, including Appendix A, dated March 15, 2001."

We agree and have changed paragraph (a) of the final rule to refer to Part I of the Accomplishment Instructions of the service bulletin for the inspection method. In addition, for clarification, we have cited Section 1.E., "Compliance," for the location of the tables identified before the reference to Paragraph 1., Planning Information, as Section 1.E. is a subsection within the Planning Information. Paragraph (b) of the proposed rule also referenced only Paragraph 1., Planning Information and has been changed for clarification. Paragraph (d) of the final rule also has been changed for clarification to refer to Part II of the Accomplishment Instructions of the service bulletin for accomplishment of the modification and to cite Section 1.E., "Compliance." Additionally, paragraph (d)(2) of the final rule has been changed for clarification to read, "For airplanes that have accumulated 35,000 or more but fewer than or equal to 54,999 flight cycles on the effective date of this AD."

- Paragraph (a)(2) specifies the wrong type of inspection. The reference to a high frequency eddy current (HFEC) inspection is incorrect. The correct reference should be a medium frequency eddy current (MFEC) inspection.

The FAA agrees that the reference to a HFEC inspection is incorrect, and we have changed paragraph (a)(2) of the final rule to specify a MFEC inspection.

- Paragraphs (b)(1) and (b)(2) of the proposed rule can be combined to simplify the proposed rule without changing the intent. This new paragraph would list the applicability as, ". . . the airplane has accumulated fewer than 45,000 total flight cycles . . ." Both paragraphs have identical inspection methods, but the applicability is different. Instead of stating that airplanes from 0 to 35,000 flight cycles need inspection per method "A," and airplanes from 35,000 to 45,000 flight cycles need the same inspection, the proposed AD should combine the

paragraphs to say airplanes from 0 to 45,000 flight cycles need inspection per method "A."

The FAA does not agree. Paragraph (b) of the final rule specifies lap joints identified in Table H of Section 1.E., "Compliance," of the service bulletin. Table H has different inspection procedures for airplanes that have accumulated fewer than 35,000 total flight cycles, and airplanes that have accumulated 35,000 or more, but fewer than 45,000 total flight cycles. We have inserted a new Note 4 in the final rule that explains this. Subsequent notes have been renumbered accordingly.

- Paragraph (b)(3) has a typographical error. The reference to "fewer than 54,999 flight cycles" should be "fewer than 55,000 flight cycles." As written, airplanes with 54,999 flight cycles are omitted because paragraph (b)(4) includes airplanes with 55,000 flight cycles and up.

The FAA agrees that airplanes having 54,999 total flight cycles were inadvertently omitted from the proposed rule and we have revised paragraph (b)(3) of the final rule accordingly.

- The heading preceding paragraph (d) of the proposed rule should be changed from "Modification/Inspections" to "Modification/Post Modification Inspections." This change helps the reader to understand the differences between the inspections in paragraphs (a), (b), and (d) of the proposed rule without having to read the details to determine those differences.

The FAA agrees and we have changed the heading for paragraph (d) of this final rule to "Modification/Post-Modification Inspections."

- As a final note, the commenter states that it is not affected by the "Concurrent Modifications" section specified in the proposed rule that affects airplanes modified per a supplemental type certificate.

Terminating Action

One commenter states that the proposed rule needs a statement that accomplishment of the modification terminates the pre-modification inspections per paragraphs (a) and (b) in the modified area only. It is clear the post-modification inspections are required.

The FAA partially agrees. The modification required by paragraph (d) of the final rule terminates the repetitive inspection requirements of paragraph (b) of the final rule only. The repetitive inspections required by paragraph (a) of the final rule are not terminated because the modification in paragraph (d)

applies to Model 727–200 series airplanes specified in Table H of the referenced service bulletin only. Paragraph (d) of the final rule has been changed to specify that accomplishment of that paragraph terminates the repetitive inspections required by paragraph (b) of this final rule.

Freighter Airplanes

One commenter's statements on the subject of freighter airplanes affected by the proposed rule and the FAA responses follow:

- There is no differentiation made between Boeing purpose-built freighters and passenger airplanes in the proposed rule, and there is no lap joint modification provided for in the referenced service bulletin for Model 727–100C or –200 freighter airplanes.

The FAA agrees that no differentiation is made between freighter and passenger airplanes in the proposed rule. Although the commenter makes no request for a specific change to the final rule, for clarification, freighter airplanes differ from passenger airplanes in that the fuselage skin is thicker in certain areas and the operational characteristics are not the same, and the FAA received no reports that multiple site damage (MSD) is an emerging problem for freighter configurations. For these reasons, no modification is required at this time for freighter airplanes. To assure awareness of an emerging MSD problem, the FAA is requiring that the freighter airplanes continue to be inspected.

- A low frequency eddy current inspection (LFEC) is required by the proposed rule on the lower lap joint skin at 300-cycle intervals after the airplane reaches the 55,000 flight cycle mark. The commenter feels this inspection requirement is unduly restrictive, given that there is no terminating action for the freighter models.

We infer that the commenter wants the LFEC inspection requirement removed; however, we do not agree that the repetitive inspection interval for freighter airplanes is at 300 flight cycles for airplanes that have accumulated 55,000 or more total flight cycles. This requirement is for passenger airplanes, as specified in paragraph (b) of the final rule, which references Table H in the referenced service bulletin. Paragraph (b) of this final rule has been changed to specify that it is applicable only to Model 727–200 series airplanes.

- The proposed AD should provide terminating action for the LFEC inspection at 300 flight cycles on the Model 727–100C series airplane in the form of a lap joint modification.

As stated previously, the modification specified in the final rule is for Model 727–200 passenger airplanes only, as specified in paragraph (d) of this final rule. Should MSD emerge as a problem, the FAA may consider further rulemaking action which could include a requirement for a modification.

Out-of-Service/Retired Airplanes

One commenter states that, based on its current Model 727 series airplane utilization versus retirement plan, it anticipates that it will only have one airplane subject to the modification, and that airplane will be taken out of service six days before the compliance deadline. Another commenter states that it has already incorporated the external LFEC inspection on its airplanes, as specified in the proposed rule; and plans to retire all Model 727 series airplanes from service before the internal inspections or modifications would be required by the proposed AD.

The commenter makes no specific request to change the final rule. The FAA advises that, should any of these airplanes be returned to service after the compliance period ends, the actions in the final rule must be done before the first flight.

Compliance Plan

One commenter paraphrases paragraph (c) of the proposed rule and notes that the compliance plan required by that paragraph must be submitted for each airplane. The commenter states that this paragraph will result in the generation of submittals to the FAA which will quickly become useless, given the dynamics of airplane maintenance planning and scheduling. The commenter adds that the FAA states in the preamble of the proposed rule that the compliance plan is necessary to verify that all operators will be able to meet the deadlines imposed by the proposed AD. The commenter states that no lasting purpose is served by this information since operators are not required to submit revisions to the compliance plan. Additionally, the commenter notes that it is the operator's responsibility to maintain its airplanes in compliance with the requirements of any AD, and recommends that paragraph (c) of the proposed rule be deleted.

One commenter states that, although not convinced that the compliance planning in the proposed rule is the appropriate method to resolve compliance conflicts with complex ADs, it does not object to the compliance plan.

We partially agree with the commenters as follows:

We do not agree to delete paragraph (c) of the final rule. As specified in the preamble of the proposed rule, we recognize that doing the lap joint modification will require a lengthy maintenance visit, within a relatively short compliance time. This makes it necessary for operators to do compliance planning to ensure that when the compliance deadline is reached all the required actions have been done on all affected airplanes. Although plans and schedules can change over time, a compliance plan ensures that the operator is aware of the complexity of the actions required by this final rule at the start rather than at the end of the compliance period.

We agree that the requirements specified in paragraph (c) of the final rule can be changed to exclude operators that have previously done the modification required by paragraph (d) of the final rule. For operators that have not yet done the modification, we have changed the requirement to provide dates and maintenance events (e.g., letter checks) to submitting only estimated dates. Paragraph (c) of the final rule has been changed accordingly.

Change Paragraph (k)

One commenter notes that paragraph (k) of the proposed rule provides details regarding FAA approval for repairs to cracks. The commenter adds that the text in that paragraph indicates that the repair method is to be approved by the Manager of the Seattle Aircraft Certification Office (ACO), but the "Differences" section in the preamble of the proposed rule indicates that, "... the repair of those conditions be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings." Therefore, paragraph (k) does not reflect the same repair approval as the "Differences" section. The commenter recommends that paragraph (k) be changed to add the repair approval by a Boeing Company DER.

The FAA does not agree with the commenter. The differences section of the proposed rule specifies that the disposition of "certain" repair conditions be accomplished by a method approved by the FAA or a Boeing Company DER. Paragraph (e) of the final rule specifies repair of cracking or corrosion per a method approved by the FAA or a Boeing Company DER because the repair of damaged structure is within the scope of a Boeing DER delegated authorization. FAA Notice

8110.72, "Structural Designated Engineering Representative (DER) Approvals of Alternative Methods of Compliance (AMOC) to Airworthiness Directives and AD Mandated Repairs," states that, "Type certificate holder DER can be delegated to approve repairs when the FAA determines that the intent of the AD was to restore the airplane, found to have damaged structure, into compliance with the airplane type certification basis or other defined airworthiness standard."

Paragraph (k) of this final rule requires concurrent modification of the airplane structure of supplemental type certificate (STC) and type certificate holders. Because not every STC holder has a company DER that is authorized to approve repairs, and independent DERs working for the STC holder are not Boeing DERs and have limited data in their possession, we cannot delegate AMOC authority to those DERs. Therefore, we cannot include in paragraph (k) the same provision that is specified in paragraph (e) of the final rule. No change to the final rule is necessary in this regard.

Allow for External LFEC Inspection

One commenter states that its experience with accomplishing the

internal inspection indicates certain areas are not accessible for the MFEC inspection. The commenter adds that it performs an external LFEC inspection in these areas, although the referenced service bulletin, the existing AD, and the proposed rule do not account for this. The commenter recommends that these documents should allow for continued external LFEC inspections in these limited areas of restricted access.

The FAA infers that the commenter is referring to the MFEC inspections required by paragraphs (a) and (b) of the final rule. The service bulletin and the proposed rule do allow for repetitive external LFEC inspections in certain areas; however, the commenter does not specify the areas where it performs the external LFEC inspections in lieu of the MFEC inspections. Although we recognize the commenter's concerns, the commenter did not clarify or provide substantiating data in its request. The FAA may approve a request for an alternative method of compliance under the provisions of paragraph (l)(1) of the final rule if data are submitted to substantiate the commenter's request. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 900 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 700 airplanes of U.S. registry will be affected by this AD.

The inspections that are currently required by AD 99-04-22 take approximately 8 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be \$480 per airplane.

The FAA estimates that the inspections required by this AD will impose the following costs, given an average labor rate of \$60 per work hour:

Service information and inspection method	Work hours	Costs per inspection cycle
Boeing SB 727-53A0222—External LFEC	16	\$960
Boeing SB 727-53A0222—Internal Detailed and MFEC (Passenger Airplanes)	120	7,200
Boeing SB 727-53A0222—Internal Detailed and MFEC (Cargo Airplanes)	40	2,400
AEI SB 00-01	12	720
PEMCO SB 727-53-0007	12	720
ATS SB 727-001	12	720
Federal Express SB 00-029	12	720

The FAA estimates that, during the 10-year period after issuance of the AD, worldwide operators will be required to modify 360 Model 727 series airplanes. The modification required by the AD takes approximately 1,200 work hours to accomplish, at an average labor rate of \$60 per work hour. The worldwide cost impact of the required modification is estimated to be \$37,413,000 over 10 years, or an average of \$3,741,000 per year. The highest impact year is the first year after issuance of the AD; an estimated 56 Model 727 series airplanes would require modification in that year. The affected Model 727 airplanes operated by U.S. operators comprise approximately 78 percent of the total worldwide costs. Therefore, the highest cost impact of the modification in any given year is estimated to be \$4,527,000 for U.S. operators.

The compliance plan that is required by this AD takes approximately 24 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the compliance plan on U.S. operators is estimated to be \$1,008,000, or \$1,440 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up,

planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11047 (64 FR 7774, February 17, 1999), and by adding a new airworthiness directive (AD), amendment 39–12703, to read as follows:

2002–07–09 Boeing: Amendment 39–12703. Docket 99–NM–105–AD. Supersedes AD 99–04–22, amendment 39–11047.

Applicability: Model 727 series airplanes, as listed in Boeing Service Bulletin 727–53A0222, Revision 1, including Appendix A, dated March 15, 2001, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (l)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix fatigue cracking in the lower skin panel at the lower row of fasteners of the fuselage lap joints, which could result in sudden fracture and failure of the lap joints, and rapid decompression of the airplane; accomplish the following:

Initial and Repetitive Inspections

(a) Do either an external low frequency eddy current (LFEC) inspection to find cracking, or both internal detailed and medium frequency eddy current (MFEC) inspections to find cracking or corrosion, in the lower skin panels of the lower row of fasteners of the fuselage lap joints per Part I of the Accomplishment Instructions of Boeing Service Bulletin 727–53A0222, Revision 1, including Appendix A, dated March 15, 2001. Do the applicable inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD on the lap joints identified in Tables A through H and J through N of Section 1.E., “Compliance,” of Paragraph 1, Planning Information, of the service bulletin. Except as provided by paragraph (b) of this AD, after doing the applicable initial inspection, repeat that inspection at the intervals specified in Tables A through G or J through N of the service bulletin.

(1) At the latest of the times specified for the initial inspection in Tables A through H (for Groups 1, 2, 3, and 5 airplanes), or Tables J through N (for Groups 3 and 4 airplanes), as applicable, of Section 1.E., “Compliance,” of the service bulletin, except where the compliance time in the service bulletin specifies a compliance time interval based on “the release of this service bulletin,” this AD requires compliance within the interval specified in the service bulletin “after the effective date of this AD.”

(2) Within 600 flight cycles after the last LFEC inspection or 7,000 flight cycles after the last MFEC inspection, if any, is accomplished in accordance with AD 99–04–22, amendment 39–11047.

Note 2: Groups 1–5 are defined in the effectivity section of the service bulletin.

Note 3: For the purposes of this AD, a detailed inspection is defined as: “An intensive visual examination of a specific structural area, system, installation, or assembly to find damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.”

(b) For Model 727–200 series airplanes: The repetitive inspection intervals for lap joints identified in Table H of Section 1.E., “Compliance,” of Paragraph 1, Planning Information, of Boeing Service Bulletin 727–53A0222, Revision 1, including Appendix A, dated March 15, 2001, decrease with increasing flight cycles. Perform the repetitive inspections listed in Table H of the service bulletin at the thresholds and intervals specified in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable.

Note 4: Table H of Boeing Service Bulletin 727–53A0222, Revision 1, has different inspection procedures for airplanes that have accumulated fewer than 35,000 total flight cycles, and airplanes that have accumulated 35,000 or more, but fewer than 45,000 total flight cycles.

(1) If, at the time of the most recent inspection required by paragraph (a) or (b) of

this AD, the airplane has accumulated fewer than 35,000 total flight cycles: Perform LFEC inspections at intervals not to exceed 600 flight cycles, or detailed internal visual and MFEC inspections at intervals not to exceed 7,000 flight cycles.

(2) If, at the time of the most recent inspection required by paragraph (a) or (b) of this AD, the airplane has accumulated 35,000 or more, but fewer than 45,000 total flight cycles: Perform LFEC inspections at intervals not to exceed 600 flight cycles, or detailed internal visual and MFEC inspections at intervals not to exceed 7,000 flight cycles.

(3) If, at the time of the most recent inspection required by paragraph (a) or (b) of this AD, the airplane has accumulated 45,000 or more, but fewer than 55,000 total flight cycles: Perform detailed internal visual and MFEC inspections at intervals not to exceed 2,000 flight cycles.

(4) If, at the time of the most recent inspection required by paragraph (a) or (b) of this AD, the airplane has accumulated 55,000 or more total flight cycles: Perform LFEC inspections at intervals not to exceed 300-flight-cycle intervals.

Note 5: Inspections done prior to the effective date of this AD per Boeing Alert Service Bulletin 727–53A0222, dated July 27, 2000, are considered acceptable for compliance with the applicable action specified in this amendment.

Compliance Plan

(c) For airplanes on which the modification required by paragraph (d) of this AD has not been done as of the effective date of this AD: Within 3 months after the effective date of this AD, submit a plan to the FAA identifying a schedule for compliance with paragraph (d) of this AD. This schedule must include, for each of the operator's affected airplanes, the estimated dates when the required actions will be accomplished. For the purposes of this paragraph, “FAA” means the Principal Maintenance Inspector (PMI) for operators that are assigned a PMI, or the cognizant Flight Standards District Office for other operators. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Note 6: Operators are not required to submit revisions to the compliance plan required by paragraph (c) of this AD to the FAA.

Modification/Post-Modification Inspections

(d) For Model 727–200 series airplanes: Do the modification listed in Table H of Section 1.E., “Compliance,” of Paragraph 1, Planning Information, of Boeing Service Bulletin 727–53A0222, Revision 1, including Appendix A, dated March 15, 2001; per Part II of the Accomplishment Instructions of the service bulletin, at the threshold specified in paragraph (d)(1), (d)(2), or (d)(3) of this AD, as applicable. Within 35,000 flight cycles after doing the modification, do the post-modification inspections for cracking in the skin, per Part III of the Accomplishment Instructions of the service bulletin.

Accomplishment of this paragraph terminates the repetitive inspections required by paragraph (b) of this AD.

(1) For airplanes that have accumulated fewer than 35,000 total flight cycles on the effective date of the AD: Accomplish the modification prior to 48,000 total flight cycles.

(2) For airplanes that have accumulated 35,000 or more, but fewer than 55,000 total flight cycles on the effective date of the AD: Accomplish the modification prior to 55,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever is later.

(3) For airplanes that have accumulated 55,000 or more total flight cycles on the effective date of the AD: Accomplish the modification within 2,000 flight cycles after the effective date of this AD.

Repair

(e) If any cracking or corrosion is found during any inspection required by paragraph (a), (b), or (d) of this AD: Before further flight, repair per Boeing Service Bulletin 727-53A0222, Revision 1, including Appendix A, dated March 15, 2001. Where the service bulletin specifies to contact Boeing for repair instructions, repair per a method approved by the Manager, Seattle Aircraft Certification

Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Concurrent Modifications

(f) For Model 727-200 series airplanes modified per supplemental type certificate (STC) SA1368SO or SA1797SO: Concurrent with the modification of the fuselage lap joints required by paragraph (d) of this AD, do the inspection for cracking of the lower row of fasteners in the lower skin of the lap joints, and the modification specified in Aeronautical Engineers Inc. Service Bulletin AEI 00-01, Revision A, dated May 7, 2001, per the service bulletin.

(g) For Model 727-200 series airplanes modified per STCs SA1444SO and SA1509SO: Concurrent with the modification of the fuselage lap joints required by paragraph (d) of this AD, do the inspection for cracking of the lower row of fasteners in the lower skin of the lap joints, and the modification specified in PEMCO Service

Bulletin 727-53-0007, Revision 1, dated June 6, 2001, per the service bulletin.

(h) For Model 727-200 series airplanes modified per STC SA00015AT: Concurrent with the modification of the fuselage lap joints required by paragraph (d) of this AD, do the inspection for cracking of the lower row of fasteners in the lower skin of the lap joints, and the modification specified in Aircraft Technical Service, Inc., Service Bulletin ATS 727-001, dated May 7, 2001, per the service bulletin.

(i) For Model 727-200 series airplanes modified per STC SA176SO: Concurrent with the modification of the fuselage lap joints required by paragraph (d) of this AD, do the inspection for cracking of the lower row of fasteners in the lower skin of the lap joints, and the modification specified in Federal Express Corporation Service Bulletin 00-029, Revision A, including Attachment A, dated May 16, 2001, per the service bulletin.

(j) Within 2,200 flight cycles after doing the applicable modification specified in paragraph (f), (g), (h), or (i) of this AD, do the post-modification inspection for cracking in the skin per the applicable service bulletin specified in Table 1, below. Repeat the applicable inspection after that at intervals not to exceed 2,200 flight cycles. Table 1 follows:

TABLE 1.—SERVICE BULLETINS

Service Bulletin	Date
Aeronautical Engineers Inc. Service Bulletin AEI 00-01, Revision A	May 7, 2001.
Aircraft Technical Service, Inc., Service Bulletin ATS 727-001	May 7, 2001.
Federal Express Corporation Service Bulletin 00-029, Revision A, including Attachment A	May 16, 2001.
PEMCO Service Bulletin, 727-53-0007, Revision 1	June 6, 2001.

Repair

(k) If any cracking is found during any inspection required by paragraph (f), (g), (h), or (i) of this AD: Before further flight, repair per the applicable service bulletin as provided in Table 1 in paragraph (j) of this AD. Where cracks exceed the limits provided in the service bulletin, and the bulletin specifies to contact the provider of the service bulletin for repair instructions, prior to further flight, repair per a method approved by the Manager, Seattle ACO. If any cracking is found during any inspection required by paragraph (j) of this AD: Before further flight, repair per a method approved by the Manager, Seattle ACO. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph,

the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(l)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously per AD 99-04-22, amendment 39-11047, are approved as alternative methods of compliance with this AD.

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(m) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(n) Except as provided by paragraphs (c), (e), and (k) of this AD, the actions shall be done in accordance with the following service bulletins, as applicable:

TABLE 2.—SERVICE BULLETINS

Service Bulletin	Date
Aeronautical Engineers Inc. Service Bulletin AEI 00-01, Revision A	May 7, 2001.
Aircraft Technical Service, Inc., Service Bulletin ATS 727-001	May 7, 2001.
Boeing Service Bulletin 727-53A0222, Revision 1, including Appendix A	March 15, 2001.
Federal Express Corporation Service Bulletin 00-029, Revision A, including Attachment A	May 16, 2001.
PEMCO Service Bulletin 727-53-0007, Revision 1	June 6, 2001.

This incorporation by reference was approved by the Director of the Federal

Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained

from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124-2207.

Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(o) This amendment becomes effective on May 17, 2002.

Issued in Renton, Washington, on April 2, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-8455 Filed 4-11-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-73-AD; Amendment 39-12704; AD 2002-07-10]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737-200, -200C, -300, -400, and -500 series airplanes, that requires replacement of certain repairs in certain fuselage lap joints with improved repairs. This amendment also requires a high frequency eddy current inspection to find cracking of the repairs of the lower skin at the lower row of fasteners in the lap joints of the fuselage, and repair of any cracking found. This action is necessary to find and fix premature cracking of certain lap joint repairs, which could result in rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 17, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules

Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Scott Fung, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227-1221; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737-200, -200C, -300, -400, and -500 series airplanes was published in the *Federal Register* on July 12, 2001 (66 FR 36513). That action proposed to require replacement of certain repairs in certain fuselage lap joints with improved repairs. That action also proposed to require a high frequency eddy current inspection to find cracking of the repairs of the lower skin at the lower row of fasteners in the lap joints of the fuselage, and repair of any cracking found.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Clarify Wording in Paragraphs (b) and (f)

One commenter states that paragraph (b) of the proposed rule should include repairs that are configured like Figures 39 and 227 of the Structural Repair Manual (SRM), where the repair parts are common to the overlapping skin of the fuselage lap joint, but where the damage is outside the lap joint lower row. The commenter notes that fatigue testing of the SRM repairs that are the subject of this proposed AD showed that premature cracking occurred on repairs configured like the SRM Figure 39, where the repair was common to the overlapping skin of the fuselage lap joint. The commenter adds that paragraph (f) of the proposed rule also should be changed. Paragraph (f) states, “* * * installed in any area between BS 259.5 and BS 1016, other than those specified in paragraph (d) of this AD * * *.” The commenter notes that the correct reference for establishing the area of the fuselage subject to this portion of the AD is paragraph (e).

The FAA agrees with the commenter. For clarification, we have changed paragraphs (b) and (e) of the final rule to add “* * * or that have a lap joint

repair configured like 737-200 SRM, Figure 39 or the 737-300 SRM, Figure 227 (paragraph b), and 737-400 SRM, Figure 229 or 737-500 SRM, Figure 227 (paragraph e), where the repair parts are common to the overlapping skin of the fuselage lap joint, but where the damage is outside the lap joint lower row.” Paragraph (e) is similar to paragraph (b) but is applicable to Model 737-400 and -500 series airplanes. We have also changed paragraph (f) of the final rule to specify, “* * * installed in any area between BS 259.5 and BS 1016, other than those specified in paragraph (e) of this AD * * *.” We inadvertently cross referenced paragraph (d) within paragraph (f) of the proposed rule.

Structural Repair Manual Information

One commenter asks that a point of contact be specified in the final rule so it can get SRM repair figures. The commenter states that it does not have access to the SRM repair figures specified in the proposed rule, and it will be difficult to determine if a repair was installed per one of those figures.

We agree and have added Note 2 to this final rule (and reordered subsequent notes accordingly) to specify a point of contact for obtaining the SRM repair figures.

A second commenter states that paragraph (a) of the proposed rule would mandate inspections of lap joints for specific repairs that were previously included in the applicable SRM. The commenter notes that if these repairs are found they are to be replaced with improved repairs, and adds that since those “bad” repairs were later determined to have poor fatigue characteristics, they were removed from the SRMs and are no longer illustrated in current revisions of the SRM. To facilitate inspection of these repairs, the commenter asks that the final rule include an attachment that depicts the repairs specified in the proposed rule.

The FAA does not agree, including attachments depicting all the repairs specified is not feasible due to the variety and number of repairs done. As stated above, we have added Note 2 to the final rule which includes a point of contact for obtaining the SRM repair figures specified. The commenter may also obtain the above requested information from the point of contact specified in Note 2.

A third commenter states that paragraph (b) of the proposed rule specifies that for repairs installed using the procedures specified in the SRM, the new replacement repairs must be installed before the accumulation of 15,000 flight cycles since repair installation, or within 5,000 flight cycles

after the effective date of the AD, whichever occurs later. The commenter notes that it does not keep track of repair dates or cycles, especially if they are out of the SRM. The commenter asks that the date of the SRM incorporation be referenced in the final rule to provide a solid date that can be used to meet the flight cycle requirements specified in paragraph (b).

The FAA does not agree. Repair method incorporation dates differ from operator to operator, and the 5,000 flight cycle grace period specified in paragraph (b) of the final rule covers those operators that do not meet the compliance requirement of installation before the accumulation of 15,000 flight cycles since repair installation. However, the commenter may obtain the above requested information from the point of contact specified in Note 2 of the final rule.

Low Frequency Eddy Current (LFEC) Inspection

Two commenters ask that an option be added to the final rule for doing an LFEC inspection in order to monitor the repair until it can be replaced at a scheduled maintenance visit. Both commenters propose a repetitive inspection interval of 1,200 flight cycles, with repair replacement to occur not later than 10,000 flight cycles after the effective date of the AD. The first commenter states that the test that identified the deficient repair, as identified in the proposed rule, was specifically designed to simulate pressurization cycles on crown skin laps. The commenter adds that, as these tests were not done on an in-service airplane, and the proposed rule does not reference any in-service crack findings, the simulated cracks may not occur on an airplane or it may occur at a later flight cycle limit than that specified in the proposed rule. The second commenter states that, due to the potential difficulties in determining the age of a given repair, it would like the LFEC option added for the timing of the repair replacement.

The FAA does not agree with the commenters. Although repetitive LFEC inspections could be done to reduce the exposure of premature cracking and consequent uncontrolled decompression of the airplane, the commenters did not provide sufficient technical justification for adding repetitive inspections and extending the replacement threshold. However, we would consider this option under the provisions for requesting approval of an alternative method of compliance, as provided by paragraph (g) of the final rule. No

change is made to the final rule in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,359 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 958 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$804,720, or \$840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is

contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002-07-10 Boeing: Amendment 39-12704. Docket 2000-NM-73-AD.

Applicability: Model 737-200, -200C, -300, -400, and -500 series airplanes having line numbers 292 through 2565 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix premature cracking of certain fuselage lap joint repairs, which could result in rapid decompression of the airplane, accomplish the following:

Replacement of Structural Repair Manual (SRM) Lap Joint Repairs

(a) For Model 737-200, -200C, and -300 series airplanes: Within 5,000 flight cycles after the effective date of this AD, inspect all lap joints between body station (BS) 259.5 and BS 1016 to identify all repairs accomplished in accordance with Boeing 737-200 SRM, Subject 53-30-03, Figure 39 (for 737-200, 200C series airplanes); or Boeing 737-300 SRM, Subject 53-00-01, Figure 227 (for 737-300 series airplanes).

(b) For Model 737-200, -200C, and -300 series airplanes that have a lap joint repair

installed at stringers S-4L and S-4R, located between BS 259.5 and BS 1016; and installed at S-10L and S-10R, or at S-14L and S-14R, located between BS 259.5 and BS 540, and between BS 727 and BS 1016; that was previously done per the procedures specified in Boeing 737-200 SRM, Subject 53-30-03, Figure 39 repair (for 737-200, -200C series airplanes); or Boeing 737-300 SRM, Subject 53-00-01, Figure 227 repair (for 737-300 series airplanes); or that have a lap joint repair configured like the 737-200 SRM, Figure 39 or the 737-300 SRM Figure 227: Where the repair parts are common to the overlapping skin of the fuselage lap joint, but where the damage is outside the lap joint lower row; before the accumulation of 15,000 flight cycles since repair installation, or within 5,000 flight cycles after the effective date of this AD, whichever is later, do the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable, per Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001. If the area of damage that required the existing repair is outside the lap joint lower row, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(1) If the lap joints are being cut out when replacing the SRM repair: Replace the Figure 39 repair of the lower skin at the lower row of fasteners in the lap joints of the fuselage per Figures 16, 17, and 18 of the Accomplishment Instructions of the service bulletin.

(2) If the lap joints are not being cut out when replacing the SRM repair: Do a high frequency eddy current (HFEC) open-hole rotating probe inspection to find cracking of the SRM repair of the lower skin at the lower row of fasteners in the lap joints of the fuselage, per the Figure 20 inspection procedures of the Accomplishment Instructions of the service bulletin. Before further flight after doing the inspection, replace a Boeing 737-200 SRM, Subject 53-30-03, Figure 39 repair with a Boeing 737-200 SRM, Subject 53-30-03, Figure 42 repair (for 737-200, 200C series airplanes); or replace a Boeing 737-300 SRM, Subject 53-00-01, Figure 227 repair with a Boeing 737-300 SRM, Subject 53-00-01, Figure 228 repair (for 737-300 series airplanes); as applicable; per Part II.D. ("Crack Repair") of the Accomplishment Instructions of the service bulletin.

(c) For Model 737-200, -200C, and -300 series airplanes that have a lap joint repair installed in any area between BS 259.5 and BS 1016, other than those specified in paragraph (b) of this AD, that was previously done per the procedures specified in Boeing 737-200 SRM, Subject 53-30-03, Figure 39 repair (for 737-200, 200C series airplanes); or Boeing 737-300 SRM Subject 53-00-01, Figure 227 repair (for 737-300 series

airplanes): Before the accumulation of 20,000 flight cycles since repair installation, or within 5,000 flight cycles after the effective date of this AD, whichever is later, do the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable, per Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001.

(d) For Model 737-400 and -500 series airplanes: Within 5,000 flight cycles after the effective date of this AD, inspect all lap joints between BS 259.5 and BS 1016 to identify all repairs accomplished in accordance with; or that have a lap joint repair configured like Boeing 737-400 SRM, Subject 53-00-01, Figure 229 (for 737-400 series airplanes); or Boeing 737-500 SRM, Subject 53-00-01, Figure 227 (for 737-500 series airplanes).

(e) For Model 737-400 and -500 series airplanes that have a lap joint repair installed at S-4L and S-4R, located between BS 259.5 and BS 1016; and installed at S-10L and S-10R, or S-14L and S-14R, located between BS 259.5 and BS 540, and between BS 727 and BS 1016; that was previously done per the procedures specified in Boeing 737-400 SRM, Subject 53-00-01, Figure 229 repair (for 737-400 series airplanes); or Boeing 737-500 SRM, Figure 227 repair (for 737-500 series airplanes); or that have a lap joint repair configured like 737-500 SRM, Figure 227 or 737-400 SRM, Figure 229: Where the repair parts are common to the overlapping skin of the fuselage lap joint, but where the damage is outside the lap joint lower row, before the accumulation of 15,000 flight cycles since repair installation, or within 5,000 flight cycles after the effective date of this AD, whichever is later, cut out and replace the repair per a method approved by the Manager, Seattle ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(f) For Model 737-400, and -500 series airplanes that have a lap joint repair installed in any area between BS 259.5 and BS 1016, other than those specified in paragraph (e) of this AD, that was previously done per the procedures specified in Boeing 737-400 SRM, Subject 53-00-01, Figure 229 repair (for 737-400 series airplanes); or Boeing 737-500 SRM, Figure 227 repair (for 737-500 series airplanes): Before the accumulation of 20,000 flight cycles since repair installation, or within 5,000 flight cycles after the effective date of this AD, whichever is later, cut out and replace the repair per a method approved by the Manager, Seattle ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Note 2: Copies of the SRM repair figures specified in paragraphs (b), (c), (e), and (f) of this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The replacement and high frequency eddy current inspection, as specified in paragraphs (b)(1) and (b)(2) of this AD, shall be done in accordance with Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on May 17, 2002.

Issued in Renton, Washington, on April 2, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02-8456 Filed 4-11-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-74-AD; Amendment 39-12705; AD 2002-07-11]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-200 and -200C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD),

applicable to certain Boeing Model 737–200 and –200C series airplanes, that requires repetitive inspections to find cracking of certain fuselage lap joint areas, and repair of any cracking found. This amendment also requires eventual modification of those areas, which constitutes terminating action for the repetitive inspections. This action is necessary to find and fix cracking of certain fuselage lap joint areas, which could result in rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 17, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Fung, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–1221; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–200 and –200C series airplanes was published in the **Federal Register** on July 12, 2001 (66 FR 36520). That action proposed to require repetitive inspections to find cracking of certain fuselage lap joint areas, and repair of any cracking found. That action also proposed to require eventual modification of those areas, which would constitute terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Change Paragraph (e)

One commenter, the airplane manufacturer, asks that paragraph (e) of the proposed rule be changed to instruct operators to install the lap joint repair

referenced in the proposed rule per Part 1.E.3. (“Compliance”) of the service bulletin. The commenter states that paragraph (e) instructs operators to install the lap joint repair on left and right stringer S–10 and S–14 lap joints per Part III (“Lap Joint Repair”) of the Accomplishment Instructions of the service bulletin. The commenter notes that Part III defines the instructions for the full lap joint cutout repair for the crown area lap joints, but the modification for the local areas of the S–10 and S–14 lap joints subject to this AD is done per Boeing 737 Structural Repair Manual (SRM), Section 53–30–3, Figure 44. The instructions for doing this modification per the SRM are provided in Part 1.E.3. (“Compliance”).

The FAA agrees with the commenter. The reference to Part III (“Lap Joint Repair”) of the Accomplishment Instructions of the service bulletin required by paragraph (e) of the final rule is not an incorrect reference; however, that section does not specifically call out Section 53–30–3, Figure 44, of the Boeing 737 SRM. Therefore, we have changed paragraph (e) of the final rule to add doing the installation of the lap joint repair of the left and right stringer S–10 and S–14 lap joints of the fuselage per Part III (“Lap Joint Repair”) of the Accomplishment Instructions of the service bulletin, or Part 1.E.3. (“Compliance”) of the service bulletin, as applicable.

Previous Revisions of Service Information

One commenter asks that Boeing Service Bulletins 737–53A1177, Revision 4, dated September 2, 1999; and Revision 5, dated February 15, 2001; be added as acceptable sources of service information for doing the terminating action specified in paragraph (e) of the proposed rule. We agree because the terminating action specified in those revisions is the same as the terminating action specified in the service information referenced in the final rule. We have added a Note 3 to this final rule (and reordered subsequent notes accordingly) to specify that accomplishment of the terminating action before the effective date of this AD according to those revisions is acceptable for compliance with paragraph (e) of this final rule.

Change Work Hours for Modification

The same commenter notes that the Differences section of the proposed rule states that the proposed modifications would require taking the airplane out of service for at least 22 days. However, in the Cost Impact section of the proposed rule, work hours necessary for the

modification are estimated at 16 hours. The commenter’s estimate is 14 hours for the modification, or approximately one day.

The FAA infers that the commenter is asking that the work hours for the modification, as specified in the Cost Impact section of the final rule, be changed. We do not agree with the commenter’s request. We note that the commenter inadvertently transposed the work hours specified for the modifications and the inspections. The actual work hour estimate for the modifications is 75 hours, and the estimate for the inspections is 16 hours. The number of work hours necessary to accomplish the required actions, restated below, is based on the information provided by the airplane manufacturer in its service bulletin. This number represents the time necessary to perform only the actions actually required by this AD—the “direct” costs. Because costs may vary significantly from operator to operator, they are almost impossible to calculate. No change to the final rule is necessary in this regard.

Change to Final Rule

The compliance plan requirements specified in paragraph (d) of this final rule have been changed to exclude operators that have previously done the modification required by paragraph (e) of the final rule, and the requirement to provide dates and maintenance events (e.g., letter checks) has been changed to just estimated dates, for operators that have not yet done the required actions. Paragraphs (d) and (e) of the final rule have been changed accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 159 Model 737–200 and –200C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 55 airplanes of U.S. registry (over 10 years) will be affected by this AD.

It will take approximately 16 work hours per airplane to accomplish the required inspections, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S.

operators is estimated to be \$52,800, or \$960 per airplane, per inspection cycle.

It will take approximately 75 work hours per airplane to accomplish the required modifications, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$1,500 per airplane. Based on these figures, the cost impact of the modifications required by this AD on U.S. operators is estimated to be \$330,000, or \$6,000 per airplane.

The compliance plan that is required by this AD action will take approximately 24 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the compliance plan on U.S. operators is estimated to be \$79,200, or \$1,440 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002-07-11 Boeing: Amendment 39-12705. Docket 2000-NM-74-AD.

Applicability: Model 737-200 and -200C airplanes having line numbers 1 through 291 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix cracking of certain fuselage lap joint areas, which could result in rapid decompression of the airplane, accomplish the following:

Repetitive Low Frequency Eddy Current (LFEC) Inspections

(a) Do an LFEC inspection to find cracking of the left and right stringers S-10 and S-14 lap joints of the fuselage, located between body station (BS) 727 and BS 747, per Figures 7 and 8 of the Accomplishment Instructions of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001; at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. Repeat the inspection after that at intervals not to exceed 1,200 flight cycles until accomplishment of the lap joint modification (repair) required by paragraph (e) of this AD.

(1) For airplanes that have accumulated 70,000 or more total flight cycles as of the effective date of this AD: At the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Before the accumulation of 71,200 total flight cycles.

(ii) Within 300 flight cycles after the effective date of this AD.

(2) For airplanes that have accumulated 45,000 or more total flight cycles, but less than 70,000 total flight cycles as of the effective date of this AD: At the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Before the accumulation of 50,000 total flight cycles.

(ii) Within 1,200 flight cycles after the effective date of this AD.

Crack Repair

(b) Except as provided by paragraph (c) of this AD: If any cracking is found during any inspection required by this AD, before further flight, repair per Part II ("Crack Repair") of the Accomplishment Instructions of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001.

(c) If any cracking is found during any inspection required by this AD, and Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, specifies to contact Boeing for repair instructions: Repair before further flight, per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Compliance Plan

(d) For airplanes on which the modification required by paragraph (e) of this AD has not been done as of the effective date of this AD: Within 3 months after the effective date of this AD, submit a plan to the FAA identifying a schedule for compliance with paragraph (e) of this AD. This schedule must include, for each of the operator's affected airplanes, the estimated dates when the required actions will be accomplished. For the purposes of this paragraph, "FAA" means the Principal Maintenance Inspector (PMI) for operators that are assigned a PMI, or the cognizant Flight Standards District Office for other operators. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

Note 2: Operators are not required to submit revisions to the compliance plan required by paragraph (d) of this AD to the FAA.

Lap Joint Modification (Repair)

(e) Except as provided by paragraph (d) of this AD, before the accumulation of 50,000 total flight cycles or within 5,000 flight cycles after the effective date of this AD, whichever comes later: Install the lap joint repair of the left and right stringer S-10 and S-14 lap joints of the fuselage, between body

station (BS) 727 and BS 747, per Part III ("Lap Joint Repair") of the Accomplishment Instructions, or Part 1.E.3. "Compliance," of Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, as applicable. Installation of this repair ends the repetitive inspections of the repaired areas required by paragraph (a) of this AD.

Note 3: Installation of the lap joint repair before the effective date of this AD per Boeing Service Bulletin 737-53A1177, Revision 4, dated September 2, 1999; or Revision 5, dated February 15, 2001; is acceptable for compliance with paragraph (e) of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(h) Except as provided by paragraphs (c) and (d) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on May 17, 2002.

Issued in Renton, Washington, on April 2, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 02-8457 Filed 4-11-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-SW-57-AD; Amendment 39-12706; AD 2001-24-51]

RIN 2120-AA64

Airworthiness Directives; MD Helicopters, Inc. Model 600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2001-24-51, which was sent previously to all known U.S. owners and operators of MD Helicopters, Inc. (MDHI) Model 600N helicopters by individual letters. This AD requires, within 5 hours time-in-service (TIS), inspecting both upper tailboom attachments, nutplates and both angles for a crack or thread damage and repairing or replacing any cracked or damaged part before further flight. Also, this AD requires replacing the upper right-hand (RH) tailboom attachment bolt (bolt) with a new bolt, and if the upper RH bolt is broken, replacing the three remaining bolts with airworthy bolts before further flight. Adding a washer to each bolt and modifying both upper access covers are also required. Thereafter, at specified intervals, inspecting the upper tailboom attachments and repairing or replacing any cracked part before further flight is required. This AD is prompted by the discovery of a cracked bolt on a helicopter. The actions specified by this AD are intended to prevent failure of a tailboom attachment, loss of the tailboom, and subsequent loss of control of the helicopter.

DATES: Effective April 29, 2002, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001-24-51, issued on November 28, 2001, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 11, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region,

Attention: Rules Docket No. 2001-SW-57-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615-GO48, Mesa, Arizona 85215-9734, telephone 1-800-388-3378, fax 480-891-6782, or on the web at www.mdhelicopters.com. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627-5232, fax (562) 627-5210.

SUPPLEMENTARY INFORMATION: On November 28, 2001 the FAA issued Emergency AD 2001-24-51 for MDHI Model 600N helicopters which requires, within 5 hours TIS, inspecting both upper tailboom attachments, nutplates and both angles for a crack or thread damage and repairing or replacing any cracked or damaged part before further flight. Also required is replacing the upper RH bolt with a new bolt, and if the upper RH bolt is broken, replacing the three remaining bolts with airworthy bolts before further flight. Adding a washer to each bolt and modifying both upper access covers are also required. Thereafter, at intervals not to exceed 25 hours TIS, inspecting the upper tailboom attachments and repairing or replacing any cracked part before further flight is required. That action was prompted by the discovery of a cracked bolt on a helicopter. Further inspection revealed cracking on bolts and attachments on several other helicopters. This condition, if not corrected, could result in failure of a tailboom attachment, loss of the tailboom, and subsequent loss of control of the helicopter.

The FAA has reviewed MD Helicopters, Inc. Service Bulletin SB600N-036, dated November 2, 2001 (SB). The SB describes procedures for inspecting the tailboom attach fittings and repairing damaged fittings. In addition to those procedures, the FAA has determined that if one bolt is broken, all four bolts must be replaced. Also, we have determined that a 25-

hour TIS repetitive inspection of the tailboom attachments is required.

Since the unsafe condition described is likely to exist or develop on other MDHI Model 600N helicopters of the same type design, the FAA issued Emergency AD 2001-24-51 to prevent failure of a tailboom attachment, loss of the tailboom, and subsequent loss of control of the helicopter. The AD requires the following:

- Within 5 hours TIS:
- Remove the tailboom fairing, tailboom, and both upper tailboom attachment access covers.
- Using a light and a 10× or higher magnifying glass, inspect for a crack or damage:
 - Both upper tailboom attachments and nutplates. If a crack or thread damage is found, replace any cracked or damaged attachments or nutplates with an airworthy part before further flight.
 - Both angles. If a crack is found on the RH angle, before further flight, install a new clip. If a crack is found on the left-hand angle, before further flight, replace or repair the angle.
 - Replace the upper RH tailboom attachment bolt with a new bolt. If the upper RH bolt is found broken, before further flight, also replace the three remaining bolts.
 - Add a washer to each bolt.
 - Modify both upper access covers.
 - At intervals not to exceed 25 hours TIS, using a borescope, through the hole in each upper access cover, inspect the upper tailboom attachments for a crack. Repair or replace any cracked part with an airworthy part before further flight.

The actions must be accomplished in accordance with the SB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the previously stated actions are required within 5 hours TIS, and thereafter at the specified time intervals, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on November 28, 2001 to all known U.S. owners and operators of MDHI Model 600N helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that 33 helicopters of U.S. registry will be affected by this

AD. It will take approximately 2 work hours per helicopter to perform the inspections, 8 work hours per helicopter to replace the bolts, if necessary, and 20 work hours to repair an angle, if necessary. The average labor rate is \$60 per work hour. Required parts will cost \$50 for each inspection, \$200 to replace the bolts on each helicopter, and \$100 to repair an angle. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$41,050 (\$28,050 to inspect and replace the bolts on each helicopter and \$13,000 to repair 10 helicopters).

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001-SW-57-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001-24-51 MD Helicopters, Inc.:

Amendment 39-12706. Docket No. 2001-SW-57-AD.

Applicability: Model 600N helicopters, serial numbers with a prefix "RN" and 003 through 063, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a tailboom attachment, loss of the tailboom, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 5 hours time-in-service (TIS):

(1) Remove the tailboom fairing and tailboom. Remove both upper tailboom attachment access covers in accordance with the Accomplishment Instructions, paragraph 2.B.(2) of MD Helicopters, Inc. (MDHI) Service Bulletin SB600N-036, dated November 2, 2001 (SB).

Note 2: MDHI CSP-HMI-2, Section 53-40-30, pertains to the subject of this AD.

(2) Using a light and a 10x or higher magnifying glass:

(i) Inspect the right and left upper tailboom attachments, part number (P/N) 500N3422 and 500N3422-3, respectively, for a crack as shown in Figure 1 of the SB. If a crack is found, replace any cracked attachment fitting with an airworthy attachment fitting before further flight.

(ii) Inspect both upper tailboom attachment nutplates for thread damage or a crack. Replace any damaged or cracked nutplate with an airworthy nutplate before further flight.

(iii) Inspect both angles for a crack. If a crack is found on a right-hand angle, P/N 500N3429-6, before further flight, install a new clip in accordance with the Accomplishment Instructions, paragraph 2.B.(5)(c) of the SB. If a crack is found on the left-hand angle, P/N 500N3429-7, before further flight, replace the angle with an airworthy angle, or repair the angle in accordance with FAA-approved procedures.

(3) Replace the upper right-hand (pilot side) tailboom attachment bolt (bolt) with a new bolt.

(4) If the removed upper pilot-side bolt is found broken, replace the remaining three bolts with airworthy bolts before further flight.

(5) Add one washer, P/N AN960C516 (NAS1149C0563R) or AN960C616 (NAS1149C0663R), as appropriate, to each tailboom bolt between the tailboom and the NAS1587 countersunk washer. A minimum of two threads must extend past the nutplate.

(6) Modify both access covers in accordance with the Accomplishment Instructions, paragraph 2.B.(6), of the SB.

(b) At intervals not to exceed 25 hours TIS, using a borescope, through the hole in each upper access cover, inspect the right and left upper tailboom attachments, nutplates, and angles for a crack. If a crack is found, replace or repair any cracked part with an airworthy part in accordance with the requirements of this AD before further flight.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (LAACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, LAACO.

Note 3: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the LAACO.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) The removal of the upper tailboom attachment access covers, inspection of the tailboom attachments, installation of a new clip, and modification of the access covers shall be accomplished in accordance with the Accomplishment Instructions, paragraphs 2.B.(2), 2.B.(5)(c), 2.B.(6), and Figure 1, of MD Helicopters, Inc. Service Bulletin SB600N-036, dated November 2, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615-GO48, Mesa, Arizona 85215-9734, telephone 1-800-388-3378, fax 480-891-6782, or on the web at www.mdhelicopters.com. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 29, 2002, to all persons except those persons to whom it was made immediately effective by Emergency AD 2001-24-51, issued November 28, 2001, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on April 2, 2002.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02-8595 Filed 4-11-02; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-0069

Rule Concerning Disclosures Regarding Energy Consumption and Water Use Of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") announces that the current ranges of comparability for clothes washers will remain in effect until further notice. Under the Appliance Labeling Rule ("Rule"), each required label on a covered appliance must show a range, or scale, indicating the range of energy

costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15% or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range will apply until new ranges are published. The Commission is today announcing that the ranges published on May 11, 2000 will remain in effect until new ranges are published.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-2889); hnewsome@ftc.gov.

SUPPLEMENTARY INFORMATION: The Rule was issued by the Commission in 1979, 44 FR 66466 (Nov. 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975.¹ The Rule covers eight categories of major household appliances, including clothes washers. The Rule also covers pool heaters, 59 FR 49556 (Sept. 28, 1994), and contains requirements that pertain to fluorescent lamp ballasts, 54 FR 28031 (July 5, 1989), certain plumbing products, 58 FR 54955 (Oct. 25, 1993), and certain lighting products, 59 FR 25176 (May 13, 1994, eff. May 15, 1995).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models (perhaps competing brands) similar to the labeled mode. The Rule also requires manufacturers to include,

¹ 42 U.S.C. 6294. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

on labels for some products, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.² These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information consistent with these changes, under Section 305.10 of the Rule, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

The annual reports for clothes washers have been received and analyzed by the Commission. The ranges of comparability for clothes washers have not changed by more than 15% from the current ranges for this product category. Therefore, the current ranges for clothes washers, published on May 11, 2000 (65 FR 30351), will remain in effect. Manufacturers must continue to base the disclosures of estimated annual operating cost required at the bottom of the EnergyGuide for clothes washers on the 2000 Representative Average Unit Costs of Energy for electricity (8.03 cents per kilo Watt-hour) and natural gas (68.8 cents per therm) that were published by DOE on February 7, 2000 (65 FR 5860), and by the Commission on April 17, 2000 (65 FR 20352).

For up-to-date tables showing current range and cost information for all covered appliances, see the Commission's Appliance Labeling Rule web page at <http://www.ftc.gov/appliances>.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02-8859 Filed 4-11-02; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 20

[T.D. ATF-476; Notice No. 923]

RIN 1512-AB57

Distribution and Use of Denatured Alcohol and Rum (2000R-291P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury Decision).

SUMMARY: This final rule amends the regulations in part 20 of title 27 of the Code of Federal Regulations by eliminating the requirement for users and dealers of specially denatured spirits (SDS) to file a bond. It also liberalizes certain qualification requirements relating to industrial alcohol user permits.

DATES: This rule is effective on June 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202-927-9347) or e-mail at LMGesser@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background on Specially Denatured Spirits

Specially denatured spirits (SDS) are alcohol or rum that have been treated with denaturants to make them unfit for beverage use. SDS include specially denatured alcohol (SDA) and specially denatured rum (SDR). A user purchases SDS to use in a process or in the manufacture of a substance, preparation, or product requiring SDS. SDS have many uses, such as:

- In laboratories as a solvent, for cleansing purposes, or in the preparation of indicator solutions and reagents.
- In the manufacture of such articles as perfumes, proprietary solvents, tobacco flavors, lotions, and sprays.

- In conversion processes to produce other substances, such as vinegar or ethyl acetate.

An industrial alcohol user permit is needed to procure, use, recover, or deal in SDS. To obtain an industrial alcohol user permit, certain registration requirements must be met. These requirements may include the submission of a detailed application with supporting data, the payment of special (occupational) tax (SOT), and the acquisition of bond coverage. Once such registration requirements are met, the applicant is issued an industrial alcohol user permit and may commence conducting any of the uses authorized under the law and regulations for industrial alcohol user permittees. The permittee is allowed to purchase and acquire alcohol from a bonded dealer or a registered distilled spirits plant (DSP) free of the excise tax payments normally required by the DSP proprietor. For this reason, SDS authorized uses are limited or restricted under the law. Any permittee who uses SDS in a manner that violates the laws and regulations becomes liable for the tax and other provisions of the Internal Revenue Code of 1986, 26 U.S.C. 5001(a)(5).

Notice of Proposed Rulemaking

On July 17, 2001, ATF published a notice of proposed rulemaking (NPRM) Notice No. 923, to solicit public comment on proposed regulations that would eliminate the requirement for users or dealers of SDS to file a bond. ATF also proposed to liberalize certain qualification requirements relating to industrial alcohol user permits. The public was invited to submit written comments on this notice for a period of sixty (60) days ending September 17, 2001.

Comments on the NPRM

We received two comments as a result of Notice No. 923. The first was from an industry member who agreed with our proposal but suggested that in addition to eliminating the requirement for users of SDS to file a bond, we should eliminate the same requirement for dealers of SDS. While the original notice may not be clear, the intent of our suggested language is to eliminate the bond requirement for both users and dealers. We have rewritten our background material to make that clarification.

We received a second comment after the close of the comment period from the Surety Association of America opposing our proposal. The Association indicated that the bond requirement should not be eliminated because it provides two valuable services to ATF:

² Reports for clothes washers are due March 1.

(1) The bond is available to pay required taxes in the event the permit holder uses the SDS improperly; and

(2) The surety provides pre-qualification so that ATF can be assured that, in the surety's estimation, the applicant is capable of complying with the terms of the permit.

ATF agrees that bond requirements had reduced the risk of tax revenue losses. Our recent experience indicates that SDS users and dealers pose a minimal risk to the revenue. Further, the elimination of the bond requirement does not leave the ATF without a means to recover revenues. Any permit holder who uses SDS in a manner that violates the laws and regulations is still directly liable for the tax as provided in 26 U.S.C. 5001(a)(5).

In summary, ATF has concluded that the bond requirement in 27 CFR part 20 is now unnecessary to protect the revenue, and the proposal to eliminate the bond requirement for users and dealers of SDS has been adopted in this final rule.

Bonds and Consents of Surety

Section 5272 of the Internal Revenue Code of 1986 provides that bond coverage may be required as a part of the industrial alcohol user permit qualification process. Prior to 1985, the regulations required applicants (other than States, political subdivisions, and the District of Columbia) who wished to obtain more than 120 gallons of SDS per year, to submit an Industrial Alcohol Bond, ATF Form 5150.25. In 1985, the SDS regulations were revised and the exemption from bond coverage was expanded. See, T.D. ATF-199, (50 FR 9152), published on March 6, 1985. Under those revisions, the percentage of users of SDS who were exempt from filing a surety bond increased from 43 percent, under the prior regulations, to 75 percent under the adopted regulations.

Subpart E of 27 CFR part 20 still reflects that expansion today. Specifically, applicants (other than States, political subdivisions, and the District of Columbia) who wish to obtain more than 5,000 gallons of SDS per year must, in addition to other requirements, submit an Industrial Alcohol Bond, ATF Form 5150.25.

Based on the post-1985 experience in administering part 20, ATF has determined that bond coverage should no longer be required of any applicant for an industrial alcohol use permit. Additionally, ATF believes that elimination of the bond requirement under subpart E will result in substantially reduced administrative and financial burdens on industrial

alcohol permittees. Therefore, ATF is eliminating the requirement for users and dealers of SDS to file a bond.

Qualification Requirements

Section 5271 of the Internal Revenue Code of 1986 requires the submission of an application before a permit may be issued to procure, deal in, or use SDS. Current regulations require the submission of a detailed application with supporting data by all applicants. The appropriate ATF officer is authorized to waive some of the application and supporting data requirements for applicants who are a State, political subdivisions thereof, or the District of Columbia, or whose annual withdrawal and sale or usage of SDS will not exceed 5,000 proof gallons.

ATF has determined that this waiver should be available to all applicants when the appropriate ATF officer concludes that the revenue is adequately protected with respect to the person submitting the application and that there is no hindrance to the effective administration of part 20. Therefore, ATF is amending the regulations to allow the appropriate ATF officer to waive detailed applications with supporting data for all applicants.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new reporting or recordkeeping requirements.

Regulatory Flexibility Act

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations will simplify the qualification process for an industrial alcohol user permit by eliminating the requirement to obtain a bond. A copy of the proposed rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

This regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this rule is not subject to the analysis required by this Executive Order.

Drafting Information

The principal author of this document is Lisa M. Gesser, Regulations Division,

Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol and alcohol beverages, Authority delegations, Claims, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

Authority and Issuance

For the reasons set forth in the preamble, ATF is amending title 27 of the Code of Federal Regulations, chapter 1, as follows:

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Paragraph 1. The authority citation for 27 CFR part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

§ 20.3 [Amended]

Par. 2. Amend § 20.3 by removing the reference to “31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lien of Surety or Sureties on Penal Bonds.”

§ 20.21 [Amended]

Par. 3. Amend § 20.21(a) by removing the word “bonds” from the first sentence.

§ 20.22 [Amended]

Par. 4. Amend § 20.22 as follows:
a. Remove paragraph (a)(3); and
b. Redesignate paragraph (a)(4) as paragraph (a)(3).

§ 20.26 [Removed]

Par. 5. Remove § 20.26.

Par. 6. Amend § 20.43 by revising paragraphs (a)(2) and (b) to read as follows:

§ 20.43 Exceptions to application requirements.

(a) * * *

(2) Applications, Form 5150.22, filed by applicants, where the appropriate ATF officer has determined that the waiver of such requirements does not pose any jeopardy to the revenue or a hindrance of the effective administration of this part.

* * * * *

(b) The waiver provided for in this section will terminate for a permittee, other than States or political subdivisions thereof or the District of Columbia, when the appropriate ATF officer determines that the conditions

justifying the waiver no longer exist. In this case, the permittee will furnish the information in respect to the previously waived items, as provided in § 20.56(a)(2).

Par. 7. Revise the second sentence of § 20.58 to read as follows:

§ 20.58 Adoption of documents by a fiduciary.

* * * The fiduciary may adopt the formulas and statements of process of the predecessor. * * *

§ 20.59 [Amended]

Par. 8. Amend § 20.59 as follows:

- a. Remove paragraph (b);
- b. Redesignate paragraph (c) as paragraph (b); and
- c. Redesignate paragraph (d) as paragraph (c).

§ 20.61 [Amended]

Par. 9. Amend § 20.61 by removing the last sentence of the text.

§ 20.62 [Amended]

Par. 10. Amend § 20.62 as follows:

- a. Remove the paragraph letter and title designation “(a) Permit”; and
- b. Remove paragraph (b).

§ 20.68 [Amended]

Par. 11. Amend § 20.68 as follows:

- a. Remove paragraph (b); and
- b. Redesignate paragraph (c) as paragraph (b).

Subpart E—[Removed]

Par. 12. Remove and reserve Subpart E—Bonds and Consents of Surety.

Par. 13. Revise paragraph (c) of § 20.175 to read as follows:

§ 20.175 Shipment for account of another dealer.

* * * * *

(a) The dealer who ordered the shipment shall be liable for the tax while the specially denatured spirits are in transit and the person actually shipping the specially denatured spirits shall not be liable.

§ 20.177 [Amended]

Par. 14. Amend paragraph (b) of § 20.177 by removing the word “bonded” in the first sentence.

§ 20.232 [Amended]

Par. 15. Amend § 20.232 as follows:

- a. Remove paragraph (b); and
- b. Redesignate paragraph (c) as paragraph (b).

§ 20.241 [Amended]

Par. 16. Amend § 20.241 by removing the words “and filing of a bond are” and add, in their place, the word “is.”

Signed: February 11, 2002.

Bradley A. Buckles,
Director.

Approved: March 11, 2002.

Timothy E. Skud,
Acting Deputy Assistant Secretary
(Regulatory, Tariff and Trade Enforcement).
[FR Doc. 02–8523 Filed 4–11–02; 8:45 am]
BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NV 021–0049a; FRL–7167–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the maintenance plan for the Steptoe Valley Central area in Nevada and granting the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂). Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

DATES: This direct final rule is effective June 11, 2002, without further notice, unless we receive adverse comments by May 13, 2002. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Please address your comments to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours: Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials are also available for inspection at the Nevada Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT:

Valerie Cooper, Grants and Program Integration Office (AIR–8), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (415) 947–4103. E-mail: Cooper.Valerie@epa.gov

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to EPA.

Table of Contents

- I. Summary of Action
- II. Introduction
 - A. What National Ambient Air Quality Standards are Considered in Today’s Rulemaking?
 - B. What Is a State Implementation Plan?
 - C. What Is the Background for this Action?
 - D. What Are the Applicable CAA Provisions for SO₂ Nonattainment Area Plans?
 - E. What Are the Applicable Provisions for SO₂ Maintenance Plans and Redesignation Requests?
- III. Review of the Nevada State submittals Addressing these Provisions?
 - A. Is the Maintenance Plan Approvable?
 - B. Has the State Met the Remaining Maintenance Plan Provisions?
 - C. Has the State Met the Redesignation Provisions of CAA Section 107(d)(3)(E)?
- IV. Final Action
- V. Administrative Requirements

I. Summary of Action

We are approving the maintenance plan for the Steptoe Valley—Central SO₂ nonattainment area (“Steptoe Valley”).¹ We are also approving the State of Nevada’s request to redesignate the Steptoe Valley area from nonattainment to attainment for the primary SO₂ NAAQS.

II. Introduction

A. What National Ambient Air Quality Standards Are Considered in Today’s Rulemaking?

Sulfur dioxide is the pollutant that is the subject of this action. The NAAQS are safety thresholds for certain ambient air pollutants set to protect public health and welfare. SO₂ is among the ambient air pollutants for which we have established a health-based standard.

SO₂ causes adverse health effects by reducing lung function, increasing respiratory illness, altering the lung’s defenses, and aggravating existing cardiovascular disease. Children, the elderly, and people with asthma are the most vulnerable. SO₂ has a variety of

¹ For the definition of the Steptoe Valley—Central nonattainment area, see 40 CFR 81.329. The Northern and Southern areas of Steptoe Valley hydrographic area 179 are not nonattainment for the SO₂ NAAQS. These areas are designated as “cannot be classified.” Steptoe Valley is a sparsely populated area in White Pine County in the northeastern portion of Nevada.

additional impacts, including acidic deposition, damage to crops and vegetation, and corrosion of natural and man-made materials.

There are both short- and long-term primary NAAQS for SO₂. The short-term (24-hour) standard of 0.14 parts per million (ppm) or 365 micrograms per cubic meter (µg/m³) is not to be exceeded more than once per year. The long-term standard specifies an annual arithmetic mean not to exceed 0.030 ppm (80 µg/m³).² The primary standards were established in 1972. (See 40 CFR 50.4 and 40 CFR part 50, Appendix A).

B. What Is a State Implementation Plan?

The Clean Air Act requires states to attain and maintain ambient air quality equal to or better than the NAAQS. The state's commitments for attaining and maintaining the NAAQS are outlined in the State Implementation Plan (or SIP) for that state. The SIP is a planning document that, when implemented, is designed to ensure the achievement of the NAAQS. Each state currently has a SIP in place, and the Act requires that SIP revisions be made periodically as necessary to provide continued compliance with the standards.

SIPs include, among other things, the following: (1) An inventory of emission sources; (2) statutes and regulations adopted by the state legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to meet the NAAQS; and (4) contingency measures to be undertaken if an area fails to attain the standard or make reasonable progress toward attainment by the required date.

The state must make the SIP available for public review and comment through a public hearing, it must be adopted by the state, and submitted to us by the Governor or his designee. We take federal action on the SIP submittal thus rendering the rules and regulations federally enforceable. The approved SIP serves as the state's commitment to take actions that will reduce or eliminate air quality problems. Any subsequent revisions to the SIP must go through the formal SIP revision process specified in the Act.

² The secondary SO₂ NAAQS (3-hour) of 0.50 ppm (1,300 µg/m³) is not to be exceeded more than once per year. Secondary NAAQS are promulgated to protect welfare. The Steptoe Valley is not classified nonattainment for the secondary standard, and this action relates only to the primary NAAQS.

C. What Is the Background for This Action?

1. When Was the Nonattainment Area Established?

In 1906, a copper smelter was built in the town of McGill, Nevada by the Nevada Copper Company. This company later became the Nevada Mines Division of the Kennecott Minerals Company (Kennecott). The smelter was the largest, and only significant source, of sulfur dioxide (SO₂) in the Steptoe Valley. Steptoe Valley is a discrete hydrologic unit (Hydrographic Basin 179) in northeastern Nevada and is divided into three subareas: the central area, the southern area, and the northern area.

On March 3, 1978, at 43 FR 8962, we designated Steptoe Valley as a primary SO₂ nonattainment area based on monitored violations of the primary SO₂ NAAQS in the area between 1975 and 1977. Prior to this date, we disapproved the SIP for the Nevada Intrastate Region (the original name of the area) because the plan did not adequately provide for attainment and maintenance of the SO₂ NAAQS.

Based on dispersion modeling prepared for the State, we proposed to redesignate the northern and southern portions of the Steptoe Valley on March 10, 1982 (47 FR 10243) and published the final redesignation on May 14, 1982 (47 FR 20773). This process formally changed the southern and northern areas to "cannot be classified" or attainment for SO₂.

On the date of enactment of the 1990 Clean Air Act Amendments, SO₂ areas, including the pre-existing SO₂ nonattainment areas, meeting the conditions of section 107(d) of the Act were designated nonattainment for the SO₂ NAAQS by operation of law. Thus, the Steptoe Valley-Central area remained nonattainment for the primary SO₂ NAAQS following enactment of the 1990 CAA Amendments on November 15, 1990.

2. How Has the SIP Addressed CAA Provisions?

In 1975, we promulgated controls for the Kennecott Copper Company smelter, the source whose emissions caused the SO₂ violations monitored in the area. See 40 CFR 52.1475, promulgated at 40 FR 5511, February 6, 1975, as amended at 51 FR 40676, November 7, 1986. The smelter was subject to these requirements and to nonferrous smelter orders issued by the State.

3. What is the Current Status of the Area?

On June 16, 1983, the smelter ceased all operation. On July 10, 1987, Kennecott allowed all air quality permits to expire. Subsequently all copper smelting equipment was removed from the McGill facility in November of 1990, and the building that housed the smelter operation was dismantled in May of 1990. Finally, on September 6, 1993, Kennecott demolished the 750 foot stack which was the last remaining vestige of copper smelting operation. The smelter tailings piles have been re-vegetated and pose no threat of emissions. The area remains sparsely settled, and there are no industrial or commercial activities in or near the nonattainment area.

Ambient air quality monitoring from 1979 to 1983 indicates there were no violations during the last years of the smelter operation. The monitor was removed when the smelter shut down.

D. What Are the Applicable CAA Provisions for SO₂ Nonattainment Area Plans?

The air quality planning requirements for SO₂ nonattainment areas are set out in subparts 1 and 5 of title I of the Act. We have issued guidance in a General Preamble describing our views on how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing SO₂ nonattainment area and maintenance area SIP provisions. 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). The General Preamble discusses our interpretation of the title I requirements, and lists SO₂ policy and guidance documents.

1. What Statutory Provisions Apply?

CAA Sections 191 and 192 address requirements for SO₂ nonattainment areas designated subsequent to enactment of the 1990 CAA Amendments and areas lacking fully approved SIPs immediately before enactment of the 1990 Clean Air Act Amendments. Steptoe Valley falls into neither of these categories and is therefore subject to the requirements of subpart 1 of title I of the CAA (Sections 171–179B).³ Section 172 of this subpart contains provisions for nonattainment plans in general; these provisions were not significantly changed by the 1990

³ In 1975, we disapproved Nevada's Article 8.1.3 and the control strategy for the Nevada Intrastate Region and promulgated regulations for the smelter (40 CFR 51.1475). Later, Nevada issued a nonferrous smelter order pursuant to Section 119 of the CAA as amended in 1977, and the smelter was permanently closed shortly after the State issued a second order.

CAA Amendments. Among other requirements, CAA Section 172 provides that SIPs must assure that reasonably available control measures (RACT) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented as expeditiously as practicable and shall provide for attainment.

E. What Are the Applicable Provisions for SO₂ Maintenance Plans and Redesignation Requests?

1. What Are the Statutory Provisions?

a. CAA Section 107(d)(3)(E).

The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment:

- (1) The area must have attained the applicable NAAQS;
- (2) The area has met all relevant requirements under section 110 and Part D of the Act;
- (3) The area has a fully approved SIP under section 110(k) of the Act;
- (4) The air quality improvement must be permanent and enforceable; and,
- (5) The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

b. CAA Section 175A.

CAA section 175A provides the general framework for maintenance plans. The maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures as may be necessary to ensure such maintenance. In addition, maintenance plans are to contain such contingency provisions as we deem necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation. Beyond these provisions, however, CAA section 175A does not define the content of a maintenance plan.

2. What General EPA Guidance Applies to Maintenance Plans?

Our primary general guidance on maintenance plans and redesignation requests is a September 4, 1992 memo from John Calcagni, entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" ("Calcagni Memo"). Specific guidance on SO₂ redesignations also appears in a

January 26, 1995 memo from Sally L. Shaver, entitled "Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas" ("Shaver Memo").

3. What Are the Requirements for Redesignation of Single-Source SO₂ Nonattainment Areas in the Absence of Monitored Data?

Our historic redesignation policy for SO₂ has called for 8 quarters of clean ambient air quality data as a necessary prerequisite to redesignation of any area to attainment. On October 18, 2000, we issued a policy to provide guidance on SO₂ maintenance plan requirements for an area lacking monitored ambient data, if the area's historic violations were caused by a major point source that is no longer in operation. See memo from John S. Seitz, entitled "Redesignation of Sulfur Dioxide Nonattainment Areas in the Absence of Monitored Data" ("Seitz Memo"). In order to allow for these areas to qualify for redesignation to attainment, this policy requires that the maintenance plan address otherwise applicable provisions, and include:

- (1) Emissions inventories representing actual emissions when violations occurred; current emissions; and emissions projected to the 10th year after redesignation;
- (2) Dispersion modeling showing that no NAAQS violations will occur over the next 10 years and that the shutdown source was the dominant cause of the high concentrations in the past;
- (3) Evidence that if the shutdown source resumes operation it would be considered a new source and be required to obtain a permit under the Prevention of Significant Deterioration provisions of the CAA; and
- (4) A commitment to resume monitoring before any major SO_x source commences operation.

III. Review of the Nevada State Submittals Addressing these Provisions

A. Is the Maintenance Plan Approvable?

1. Did the State Meet the CAA Procedural Provisions?

On February 14, 1995, the Nevada Division of Environmental Protection (NDEP) submitted to EPA the "Redesignation Request and Maintenance Plan for the National Sulfur Dioxide Standard—Central Steptoe Valley" ("Maintenance Plan"). The State adhered to its SIP adoption procedures. This submittal became complete by operation of law 6 months later. A supplement to the Maintenance Plan was provided in the form of a letter from Allen Biaggi, Administrator, Nevada Division of Environmental

Protection, to Wayne Nastri, Regional Administrator, EPA Region IX, dated February 27, 2002 ("Biaggi letter").

2. Does the Area Qualify for Review under the Seitz Memo?

a. Were the Area's Violations Caused by a Major Point Source of SO_x Emissions That Is No Longer in Operation?

As discussed above, the only non-negligible source of SO_x emissions within the Steptoe Valley nonattainment area was the Kennecott McGill copper smelter, which ceased operation in 1983. NDEP removed the SO₂ monitor at that time, the smelter operating permits expired in 1987, the smelting equipment was removed over a period of years, and the smelter stack was demolished in 1993. No new sources of SO₂ have located in the area. Thus, the Steptoe Valley meets this criterion for review under the Seitz Memo.

b. Has the State Met the Requirements of the Seitz Memo?

As discussed below, the State has addressed the requirements in the Seitz Memo for emissions inventories, modeling, permitting of major new sources, and agreement to commence monitoring if a new major source locates in the area. Therefore, the State has met the special criteria in the Seitz Memo for approval of maintenance plans and redesignation requests.

(1) Emissions Inventory. The State provided the 3 emissions inventories specified in the Seitz Memo for the sources in, and within 50 kilometers of, the Steptoe Valley nonattainment area. For a representative year when the copper smelter was in operation (1978), direct SO_x emissions from smelting operations were 71,754 tons per year (tpy), and fugitive SO_x emissions were estimated to be 7,000 tpy. NDEP identified no SO_x emissions in, or within 50 kilometers of, the nonattainment area in 2001, and NDEP projected no SO_x emissions in, or within 50 kilometers of, Steptoe Valley in the 10th year after redesignation (2012) (Biaggi letter). We conclude that the inventories are complete, accurate, and consistent with applicable CAA provisions and the Seitz Memo.

(2) Modeling. The Maintenance Plan includes modeling prepared by Dames and Moore in 1982 (Appendix Five). The analysis uses the VALLEY model to predict SO₂ annual and 24-hour concentrations in the nonattainment area during peak smelter operation. The modeling predicted violations of both the annual and 24-hour NAAQS when the smelter was fully operating. Because there are no longer any sources of SO₂

in the nonattainment area or within 50 kilometers of the area, however, the State predicts no current or projected SO₂ concentrations in Steptoe Valley. We find that the modeling in the Maintenance Plan meets CAA requirements and our applicable guidance, including the Seitz Memo.

(3) Permitting of New Sources. The NDEP has confirmed that the State would consider that any source resuming operation at the site of the copper smelter (or at any other location within the nonattainment area) to be a "new" SO_x source subject to applicable permitting requirements, including the Prevention of Significant Deterioration (PSD) program if the source is a major source (Biaggi letter). We delegated PSD permitting authority to NDEP on May 27, 1983, and the State has been administering the PSD program successfully since that date. The State's commitment to treat any major source at the Kennecott site as "new" under the PSD program satisfies the provisions of the Seitz Memo.

(4) Monitoring. NDEP has confirmed that the State has the authority to ensure that monitoring is required if a major SO₂ source applies for a permit to construct and operate. The State also reaffirmed its intention to resume ambient monitoring before any major source of SO_x emissions commences operation (Biaggi letter). This addresses the monitoring provision of the Seitz Memo.

c. Has the State Met the Remaining Maintenance Plan Provisions?

As discussed above, CAA Section 175A sets forth the statutory requirements for maintenance plans, and the Calcagni and Shaver memos cited above contain specific EPA guidance. The only maintenance plan element not covered by the Seitz Memo is the contingency provision. CAA Section 175A provides that maintenance plans "contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area."

The Steptoe Valley Maintenance Plan includes the State's commitment to continue to implement and enforce measures necessary to maintain the SO₂ NAAQS. If these measures prove insufficient to protect against violations, the State also committed to adopt and implement additional control measures as necessary.

The Calcagni Memo emphasizes the importance of specific contingency measures, schedules for adoption, and action levels to trigger implementation

of the contingency plan. Since there are no remaining SO₂ sources and no SO₂ monitoring in the Steptoe Valley area, we agree with the State that this level of specificity is not appropriate, and we conclude that the State's commitment satisfactorily addresses the CAA provisions.

B. Has the State Met the Redesignation Provisions of CAA Section 107(d)(3)(E)?

1. Has the Area Attained the 24-Hour and Annual SO₂ NAAQS?

As discussed above, the normal prerequisite for redesignation is submittal of quality-assured ambient data with no violations of the SO₂ NAAQS for the last 8 consecutive quarters. However, the Seitz Memo recognizes that states should be provided an opportunity to request redesignation where there is no longer monitoring but where there is no reasonable basis for assuming that SO₂ violations persist after closure of the sources that were the primary or sole cause of these violations. Steptoe Valley is such an area, and the State has submitted convincing evidence that no major or minor stationary sources of SO_x emissions remain in operation in or within 50 kilometers of the area.

2. Has Each Area Met All Relevant Requirements Under Section 110 and Part D of the Act?

CAA Section 110(a)(2) contains the general requirements for SIPs (enforceable emission limits, ambient monitoring, permitting of new sources, adequate funding, etc.) and Part D contains the general provisions applicable to SIPs for nonattainment areas (emissions inventories, reasonably available control measures, demonstrations of attainment, etc.). Over the years, we have approved Nevada's SIP as meeting the basic requirements of CAA Section 110(a)(2), and the CAA Part D requirements for Steptoe Valley were addressed primarily by the regulations applicable to the Kennecott facility during the period of its operation. The State has thus met the basic SIP requirements of the CAA.

3. Does Each Area Have a Fully Approved SIP Under Section 110(k) of the Act?

The Nevada SIP for this area originally had a single deficiency—the State's regulation for the smelter—which led first to the promulgation of a Federal regulation, and then to the issuance of a nonferrous smelter order (NSO). The FIP and NSO were mooted by the permanent shutdown of the

source, which left no remaining SIP deficiencies.

4. Has the State Shown That the Air Quality Improvement in Each Area Is Permanent and Enforceable?

The Maintenance Plan shows that the exclusive cause of past SO₂ NAAQS violations (the Kennecott copper smelter at McGill) no longer exists. As a result, there would be no reason to expect that SO₂ ambient concentrations would exceed background levels.

5. Does Each Area Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the Act?

As discussed above, we are approving the Steptoe Valley Maintenance Plan in this action.

IV. Final Action

We are approving the Maintenance Plan for the Steptoe Valley area under CAA Sections 110 and 175A. We are also approving the State's request to redesignate the Steptoe Valley—Central area to attainment of the primary SO₂ NAAQS.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan and redesignate the area if relevant adverse comments are filed. This rule will be effective June 11, 2002 without further notice unless relevant adverse comments are received by May 13, 2002. If we receive such comments, this action will be withdrawn before the effective date. All public comments received will then be addressed in a subsequent final rule based on the proposed action. We will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 11, 2002.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting federal requirements and imposes no additional

requirements beyond those imposed by State law.

Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 24, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD—Nevada

2. Section 52.1470 is amended by adding paragraphs (c)(39) and (c)(40) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(39) The following plan was submitted on February 14, 1995, by the Governor's designee.

(i) Incorporation by reference.

(A) Redesignation Request and Maintenance Plan for the National Sulfur Dioxide Standard—Central Steptoe Valley, adopted by Nevada Division of Environmental Protection on February 14, 1995.

(40) The following plan supplement was submitted on February 27, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Supplement to the Maintenance Plan for the National Sulfur Dioxide Standard—Central Steptoe Valley (Letter from Allen Biaggi, Administrator, Nevada Division of Environmental Protection, to Wayne Nastri, Regional Administrator, EPA Region IX, dated February 27, 2002).

* * * * *

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.329 the SO₂ table is amended by revising the entry for the Steptoe Valley—Central area to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—SO₂

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *	*	*	*	*
Steptoe Valley (179)(10–29N, 61–67E): Central	X
* * * * *	*	*	*	*

* * * * *

[FR Doc. 02–8289 Filed 4–11–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[RI 044–6991a; FRL–7170–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the sections 111(d)/129 negative declarations submitted by the Rhode Island Department of Environmental Management (DEM) on January 8, 2002. These negative declarations adequately certify that there are no existing commercial and industrial solid waste incineration units (CISWIs) or small municipal waste combustors (MWCs) located within the boundaries of the state of Rhode Island. EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (e.g., CISWIs). The state of Rhode Island submitted these negative declarations in lieu of a state control plan.

DATES: This direct final rule is effective on June 11, 2002 without further notice unless EPA receives significant adverse comment by May 13, 2002. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permit Programs Unit, Office of Ecosystem Protection, U.S. EPA, One

Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. What action is EPA taking today?
- II. What is the origin of the requirements?
- III. When did the requirements first become known?
- IV. When did Rhode Island submit its negative declarations?
- V. Administrative Requirements

I. What Action Is EPA Taking Today?

EPA is approving the negative declarations of air emissions from CISWI and small MWC units submitted by the state of Rhode Island.

EPA is publishing these negative declarations without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve these negative declarations should relevant adverse comments be filed. If EPA receives no significant adverse comment by May 13, 2002 this action will be effective June 11, 2002.

If EPA receives significant adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA

receives no comments, this action will be effective June 11, 2002.

II. What Is the Origin of the Requirements?

Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

III. When Did the Requirements First Become Known?

On November 30, 1999 (64 FR 67092) and August 30, 1999 (64 FR 47276), EPA proposed emission guidelines for CISWI units and small MWCs, respectively. These separate actions enabled EPA to list CISWI units and small MWCs as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants for each category by proposing emission guidelines for existing CISWI units and small MWCs. These guidelines were published in final form on December 1, 2000 (65 FR 75362) and December 6, 2000, respectively.

IV. When Did Rhode Island Submit Its Negative Declarations?

On January 8, 2002, the Rhode Island Department of Environmental Management (DEM) submitted a letter certifying that there are no existing CISWI units and no small MWCs subject to 40 CFR part 60, subpart B. Section 111(d) and 40 CFR 62.06 provide that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan. EPA is publishing these negative declarations at 40 CFR 62.9970 and 62.9980, respectively.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a

disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

D. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today's action does not create any new requirements on any entity affected by this State Plan. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Negative declaration approvals under section 111(d) of the Clean Air Act do not create any new requirements on any

entity affected by this rule, including small entities. Furthermore, in developing the CISWI and small MWC emission guidelines and standards, EPA prepared a written statements pursuant to the Regulatory Flexibility Act which it published in the respective 1999 proposal notices (*see* 64 FR 67100 and 64 FR 47243). In accordance with EPA's determination in issuing the 2000 CISWI and small MWC emission guidelines, these negative declaration approvals do not include any new requirements that will have a significant economic impact on a substantial number of small entities.

Therefore, because this approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that this approval action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this negative declaration does not substantially affect the rights or obligations of non-agency parties.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In approving or disapproving negative declarations under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's rule, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Therefore, the requirements of the NTTAA are not applicable to this final rule.

I. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 13, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

Dated: April 3, 2002.

Robert W. Varney,
Regional Administrator, EPA New England.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

Subpart OO—Rhode Island

2. Subpart OO is amended by adding a new § 62.9970 and a new undesignated center heading to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.9970 Identification of plan—negative declaration.

On January 8, 2002, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing commercial and industrial solid waste incineration units in the state subject to the emission guidelines under part 60, subpart DDDD of this chapter.

3. Subpart OO is also amended by adding a new § 62.9980 and a new undesignated center heading to read as follows:

Air Emissions From Existing Municipal Waste Combustors With the Capacity To Combust at Least 35 Tons Per Day But No More Than 250 Tons Per Day of Municipal Solid Waste

§ 62.9980 Identification of plan—negative declaration.

On January 8, 2002, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing small municipal waste combustors in the state subject to the emission

guidelines under part 60, subpart BBBB of this chapter.

[FR Doc. 02–8825 Filed 4–11–02; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–10 and 301–53

[FTR Amendment 104]

RIN 3090–AH57

Federal Travel Regulation; Using Promotional Materials and Frequent Traveler Programs

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to remove those provisions requiring that promotional benefits, including frequent flyer miles, earned on official travel are considered the property of the Government and may only be used for official travel. On December 28, 2001, The President signed into law a provision that Federal employees may retain such promotional items for personal use.

DATES: This final rule is effective April 12, 2002 and applies to travel performed before, on, or after December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Program Analyst (Travel Team Leader and Facilitator) at telephone (202) 501–0483.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to Section 1116 of the National Defense Authorization Act for Fiscal Year 2002 (the Act) (Public Law 107–107, December 28, 2001), the General Services Administration (GSA) is issuing regulations allowing Federal employees to retain and make personal use of promotional items earned while on official Government travel. A Federal traveler who receives a promotional item such as frequent flyer miles, upgrades, or access to carrier clubs or facilities received as a result of using travel or transportation services obtained at Federal Government expense, or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use, if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government. The Act also repealed Section 6008 of the Federal Acquisition Streamlining Act of

1994 (5 U.S.C. 5702 note; Public Law 103-355) that had previously prohibited personal retention of such promotional items.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301-10 and 301-53

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR Chapter 301 is amended as follows:

PART 301-10—TRANSPORTATION EXPENSES

1. The authority citation for 41 CFR part 301-10 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); 49 U.S.C. 40118.

2. Section 301-10.123 is amended by adding a note at the end of the section to read as follows:

§ 301-10.123 When may I use first-class airline accommodations?

* * * * *

Note to § 301-10.123: You may upgrade to first-class at your personal expense, including through redemption of frequent flyer benefits.

3. Section 301-10.124 is amended by:
a. Revising the phrase “paragraphs (a) through (j) of this section” in the introductory text to read “paragraphs (a) through (i) of this section”.

b. Removing paragraph (g) and redesignating paragraphs (h), (i), and (j) as paragraphs (g), (h), and (i), respectively.

c. Adding a note at the end of the section to read as follows:

§ 301-10.124 When may I use premium-class other than first-class airline accommodations?

* * * * *

Note to § 301-10.124: You may upgrade to premium-class other than first-class at your personal expense, including through redemption of frequent flyer benefits.

4. Part 301-53 is revised to read as follows:

PART 301-53—USING PROMOTIONAL MATERIALS AND FREQUENT TRAVELER PROGRAMS

Sec.

301-53.1 To whom do the pronouns “I”, “you”, and their variants refer throughout this part?

301-53.2 What may I do with promotional benefits or materials I receive from a travel service provider?

301-53.3 How may I use frequent traveler benefits?

301-53.4 May I select travel service providers for which my agency is not a mandatory user in order to maximize my frequent traveler benefits?

301-53.5 Are there exceptions to the mandatory use of contract city-pair fares and an agency’s travel management system?

301-53.6 Is a denied boarding benefit considered a promotional item for which I may retain compensation received from an airline whether voluntary or involuntary?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 301-53.1 To whom do the pronouns “I”, “you”, and their variants refer throughout this part?

The pronouns “I”, “you”, and their variants throughout this part refer to the employee.

§ 301-53.2 What may I do with promotional benefits or materials I receive from a travel service provider?

Any promotional benefits or materials received from a travel service provider in connection with official travel may be retained for personal use, if such items

are obtained under the same conditions as those offered to the general public and at no additional cost to the Government.

§ 301-53.3 How may I use frequent traveler benefits?

You may use frequent traveler benefits earned on official travel to obtain travel services for a subsequent official travel assignment(s); however, you may also retain such benefits for your personal use, including upgrading to a higher class of service.

§ 301-53.4 May I select travel service providers for which my agency is not a mandatory user in order to maximize my frequent traveler benefits?

No, you may not select a traveler service provider based on whether it provides frequent traveler benefits. You must use the travel service provider for which your agency is a mandatory user. This includes contract passenger transportation services and travel management systems. You may not choose a travel service provider to gain frequent traveler benefits for personal use. (Also see §§ 301-10.109 and 301-10.110 of this chapter.)

§ 301-53.5 Are there exceptions to the mandatory use of contract city-pair fares and an agency’s travel management system?

Yes, the exceptions are in accordance with §§ 301-10.107 and 301-10.108 of this chapter for the mandatory use of a contract city-pair fare, and § 301-73.103 of this chapter for the mandatory use of a travel management system.

§ 301-53.6 Is a denied boarding benefit considered a promotional item for which I may retain compensation received from an airline whether voluntary or involuntary?

A denied boarding benefit (e.g., cash, free ticket coupon) is not a promotional item given by an airline. See the provisions of § 301-10.116 of this chapter when an airline denies you a seat (involuntary) and § 301-10.117 of this chapter when you vacate your seat (voluntary).

Dated: April 1, 2002.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 02-8756 Filed 4-11-02; 8:45 am]

BILLING CODE 6820-14-P

Proposed Rules

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720-AA63

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE; Implementation of the Pharmacy Benefits Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule is designed to implement section 701 of the National Defense Authorization Act for Fiscal Year 2000. This proposed rule establishes procedures for the inclusion of pharmaceutical agents on a Uniform Formulary based upon relative clinical effectiveness and cost effectiveness; establishes cost-sharing requirements, including a tiered co-payment structure, for generic, formulary and non-formulary pharmaceutical agents; establishes procedures to assure the availability of pharmaceutical agents not included on the Uniform Formulary to eligible beneficiaries at the non-formulary cost-share tier; establishes procedures to receive pharmaceutical agents not included on the Uniform Formulary, but considered clinically necessary, under the same terms and conditions as an agent on the Uniform Formulary; establishes procedures to assure the availability of clinically appropriate non-formulary pharmaceutical agents to members of the uniformed services; establishes procedures for prior authorization when required; and establishes a Department of Defense Pharmacy and Therapeutics Committee (DoD P&T Committee) and a Uniform Formulary Beneficiary Advisory Panel. Other administrative amendments are also made to clarify specific policies that relate to the program. Public comments are invited and will be considered for possible revisions to the final rule.

DATES: Written comments will be accepted until June 11, 2002.

ADDRESSES: Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

FOR FURTHER INFORMATION CONTACT: Michael Kottyan, Medical Benefits and Reimbursement System, TRICARE Management Activity, Office of the Assistant Secretary of Defense (Health Affairs), telephone 303-676-3520.

SUPPLEMENTARY INFORMATION:

A. Overview of the Rule

Section 701 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65), codified at Title 10, United States Code, Section 1074g, directs the Department to establish an effective, efficient, integrated Pharmacy Benefits Program. The current prescription drug benefit under TRICARE includes the U.S. Food and Drug Administration (FDA) approved drugs and medicines that by United States law require a physician's or other authorized individual professional provider prescription (acting within the scope of their license) that has been ordered or prescribed by them. The benefit does not include prescription drugs for medical conditions that are expressly excluded from the TRICARE benefit by statute or regulation.

The Pharmacy Benefits Program will include a Uniform Formulary of pharmaceutical agents that will assure the availability of pharmaceutical agents in the complete range of therapeutic classes authorized under the current TRICARE prescription drug benefit. A therapeutic class is defined as a group of drugs that are similar in chemical structure, pharmacological effect, or clinical use. Pharmaceutical agents in each therapeutic class shall be selected for inclusion on the Uniform Formulary based upon the relative clinical effectiveness and cost effectiveness of the agents in such class. If a pharmaceutical agent in a therapeutic class is determined not to have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome compared to other drugs included on the Uniform Formulary, it may be classified as a non-formulary agent. If a pharmaceutical agent in a therapeutic class is not cost effective relative to

other pharmaceutical agents in a therapeutic class, it may be classified as a non-formulary agent. Pharmaceutical agents used exclusively for medical conditions that are expressly excluded from the TRICARE benefit by statute or regulation will not be considered for inclusion on the Uniform Formulary.

B. Clinical Effectiveness and Cost Effectiveness

It is presumed that pharmaceutical agents should be included on the Uniform Formulary unless the Pharmacy and Therapeutics Committee finds by a majority vote that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over other pharmaceutical agents included on the uniform formulary. The DoD Pharmacy and Therapeutics Committee will exercise their collective professional judgement by considering pertinent information from a variety of sources.

The DoD Pharmacy and Therapeutics Committee has sole discretion in determining what sources should be reviewed in evaluating the clinical effectiveness of a pharmaceutical agent in a therapeutic class. The DoD Pharmacy and Therapeutics Committee may designate Government agents to research pertinent sources of information and report the results to the full committee. The DoD Pharmacy and Therapeutics Committee or their designated agents will exercise their professional judgement in determining what sources of information to review. Sources of information may include, but are not limited to: medical and pharmaceutical textbooks and reference books; clinical literature; the U.S. Food and Drug Administration; pharmaceutical companies; clinical practice guidelines; and expert opinion.

The DoD Pharmacy and Therapeutics Committee will evaluate the relative clinical effectiveness of pharmaceutical agents within a therapeutic class by considering information about their safety, effectiveness, and clinical outcome. Information considered by the committee may include but is not limited to: FDA approved and other studied indications; pharmacology; pharmacokinetics; contraindications; warnings/precautions; incidence and severity of adverse effects; drug to drug,

drug to food, and drug to disease interactions; availability, dosing, and method of administration; epidemiology and relevant risk factors for diseases/conditions in which the drugs are used; and concomitant therapies; results of safety and efficacy studies; results of effectiveness/clinical outcomes studies; and results of meta-analyses.

In considering the relative cost effectiveness of pharmaceutical agents in a therapeutic class authorized under the TRICARE pharmacy benefit, the DoD Pharmacy and Therapeutics Committee shall evaluate the costs of the agent in relation to the safety, effectiveness, and clinical outcomes of other agents in the class. The DoD Pharmacy and Therapeutics Committee may designate Government agents to conduct the evaluation and report the results for the Committee's consideration and decision. Information considered by the committee or its designated agents concerning the relative cost effectiveness of the pharmaceutical agent may include but is not limited to: cost of the drug to the Government; impact on overall medical resource utilization and costs, cost-efficacy studies; cost-effectiveness studies; cross-sectional or retrospective economic evaluations; pharmacoeconomic models; patent expiration dates; clinical practice guideline recommendations; and existence of existing blanket purchase agreements, incentive price agreements, or contracts.

Based on its assessment of the relative clinical and cost effectiveness of agents within a therapeutic class, the DoD Pharmacy and Therapeutics Committee will recommend that an agent either be included on the Uniform Formulary or designated as non-formulary. The DoD Pharmacy and Therapeutics Committee's recommendation will be determined by a majority vote.

C. Evaluation of Pharmaceutical Agents for Determinations Regarding Inclusion on the Uniform Formulary

The DoD Pharmacy and Therapeutics Committee will periodically evaluate or reevaluate individual drugs and/or drug classes for determinations regarding inclusion or continuation on the Uniform Formulary. Evaluation or reevaluation of individual drugs or drug classes may be prompted by a variety of circumstances that may include but are not limited to: approval of a new drug by the FDA; approval of a new indication for an existing drug; changes in the clinical use of existing drugs; new information concerning the safety, effectiveness or clinical outcomes of existing drugs; price changes; shifts in market share; scheduled review of a

therapeutic class; and requests from Pharmacy and Therapeutics Committee members, military treatment facilities, or other Military Health System officials.

D. Uniform Formulary at Military Treatment Facilities (MTFs)

Pharmaceutical agents included on the Uniform Formulary shall be available through military treatment facilities of the uniformed services, consistent with the scope of health care services offered in such facilities. The Basic Core Formulary (BCF) is a subset of the Uniform Formulary and is a mandatory component of all MTF pharmacy formularies. The BCF contains the minimum set of drugs that each MTF pharmacy must have on its formulary to support the primary care scope of practice for Primary Care Manager enrollment sites. Additions to individual MTF formularies are determined by local Pharmacy and Therapeutics Committees based upon the scope of health care services provided. However, pharmaceutical agents that are designated as non-formulary on the Uniform Formulary shall not be included on an MTF pharmacy formulary. All drugs on the MTF formulary must be available to all beneficiaries. There are no co-pays or cost-shares for any beneficiaries utilizing MTF pharmacies.

E. Prior Authorizations

Selected pharmaceutical agents may be subject to prior authorization or utilization review requirements to assure medical necessity, clinical appropriateness and/or cost effectiveness. The Pharmacy and Therapeutics Committee will assess the need to prior authorize a given agent by considering the relative clinical and cost effectiveness of agents within a therapeutic class. Agents that require prior authorization will be identified by a majority vote of the Pharmacy and Therapeutics Committee. The Pharmacy and Therapeutics Committee will establish the prior authorization criteria for a given agent.

F. Cost-Sharing Requirements

Active duty members do not pay a cost-share. Cost-sharing requirements for all other beneficiaries will be based upon the pharmaceutical agent's classification on the uniform formulary, that is, generic, formulary, or non-formulary and the point of service, that is, MTF, retail network pharmacy, retail non-network pharmacy, or the National Mail Order Pharmacy (NMOP), from which the agent is acquired. TRICARE

Prime point of service charges will still apply.

There is no co-pay for pharmaceutical agents obtained from a military treatment facility.

For pharmaceutical agents obtained from a retail network pharmacy there is a \$9.00 co-pay per prescription for up to a 30-day supply of a formulary agent, a \$3.00 co-pay per prescription for up to a 30-day supply of a generic agent, and a \$22.00 co-pay per prescription for up to a 30-day supply of a non-formulary agent.

For formulary and generic pharmaceutical agents obtained from a retail non-network pharmacy there is a 20 percent or \$9.00 co-pay (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

For non-formulary pharmaceutical agents obtained from a retail non-network pharmacy there is a 20 percent or \$22.00 co-pay (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

For pharmaceutical agents obtained under the NMOP program there is a \$9.00 co-pay per prescription for up to a 90-day supply of a formulary agent, a \$3.00 co-pay per prescription for up to a 90-day supply of a generic agent, and a \$22.00 co-pay per prescription for up to a 90-day supply of a non-formulary agent.

Section 1074g(a)(6) provides that for non-formulary agents, cost sharing shall be consistent with common industry practice and not in excess of amounts generally comparable to 20% for dependents of active duty service members or 25% for retirees and their dependents. The proposed non-formulary cost share of \$22 (or in the case of non-formulary agents provided by non-network providers, the greater of \$22 or 20%) complies with this statutory requirement. An analysis of categories of agents for which the selection of formulary and non-formulary agents is anticipated indicated that the average prescription cost and dispensing fee of potential non-formulary agents will, in the aggregate, be in excess of \$110. Thus, the non-formulary co-payment will not be in excess of amounts generally comparable to the statutory maximums. In addition, these co-payment provisions are based upon common industry practice. Common industry practice typically has a \$12 to \$15 differential in the cost share between formulary and non-formulary pharmaceutical agents. The \$22.00 per prescription co-pay for non-formulary agents is subject to annual adjustment by the Assistant Secretary of Defense (Health Affairs), upon advice of

the Pharmacy and Therapeutics Committee, based on experience with the Uniform Formulary, changes in economic circumstances, and other relevant factors. Any adjustments will remain consistent with the statutory co-pay maximum.

A point of service cost-share of 50 percent applies in lieu of the 20 percent co-pay for TRICARE Prime beneficiaries who obtain prescriptions from retail non-network pharmacies.

Except as provided below, for prescription drugs acquired by TRICARE Standard beneficiaries from retail non-network pharmacies, beneficiaries are subject to the \$150.00 per individual or \$300.00 maximum per family annual fiscal year deductible.

Under TRICARE Standard, dependents of members of the uniformed services whose pay grade is E-4 or below are subject to the \$50.00 per individual or \$100.00 maximum per family annual fiscal year deductible.

The TRICARE catastrophic loss limits apply to pharmacy benefits. For dependents of active duty members, the maximum family liability is \$1,000 for cost-shares and deductibles based on allowable charges for TRICARE Basic Program services and supplies received in a fiscal year. For all other categories of beneficiary families, the maximum family liability is \$3,000 in a fiscal year.

G. Determination of Generic Drug Classification Under the Pharmacy Benefits Program

The designation of a drug as a generic, for the purpose of applying cost-shares at the generic rate, will be determined through the use of standard pharmaceutical references as part of commercial best business practices. In considering the relative cost effectiveness of pharmaceutical agents in a therapeutic class, the Pharmacy and Therapeutics Committee may consider the existence of blanket purchase agreements, incentive price agreements, or contracts. The existence of these agreements or contracts may result in situations where a brand drug is the most cost effective pharmaceutical agent for the Government to purchase, even more cost effective than generic agents. When this circumstance occurs, the Pharmacy and Therapeutics Committee may designate that the branded drug cost share be the same as the lower generic drug cost share when the branded drug is selected as the preferred agent over generic drugs because it is more cost effective for the Government. This will assure that the beneficiary is not penalized when brand products are competed and selected as the formulary pharmaceutical agent over generic

products following a contracting initiative.

H. Availability of Clinically Appropriate Non-Formulary Pharmaceutical Agents to Members of the Uniformed Services

The Pharmacy Benefits Program is required to assure the availability of clinically appropriate pharmaceutical agents to members of the uniformed services, including where appropriate, agents not included on the Uniform Formulary. MTFs shall establish procedures to evaluate the clinical appropriateness of prescriptions written for members of the uniformed services for pharmaceutical agents not included on the uniform formulary. If it is determined that the prescription is clinically appropriate, the MTF will provide the pharmaceutical agent to the member. TRICARE will conduct an evaluation for clinical appropriateness when a member presents a prescription for a non-formulary pharmaceutical agent to a network or non-network pharmacy or the NMOP.

I. Availability of Non-Formulary Pharmaceutical Agents to Eligible Covered Beneficiaries

Non-formulary pharmaceutical agents will be available to eligible beneficiaries through the retail network pharmacies and the NMOP at the non-formulary co-pay tier of \$22.00 per prescription.

Non-formulary pharmaceutical agents will be available to eligible beneficiaries through the retail non-network pharmacies at the non-formulary co-pay tier of 20 percent or \$22.00, whichever is greater, per prescription.

Non-formulary pharmaceutical agents will be available to eligible covered beneficiaries through the MTF pharmacies only for prescriptions written by MTF providers and approved through the non-formulary special order process that validates the clinical necessity for use of the non-formulary pharmaceutical agent.

J. Reduction of Co-Pay for Cases of Clinical Necessity

Non-formulary pharmaceutical agents will be available to eligible covered beneficiaries through the retail network and non-network pharmacies at the same co-pay as a formulary pharmaceutical agent in situations of documented clinical necessity. A clinical necessity to use a non-formulary drug may exist when either: the use of formulary agents is contraindicated; the patient experiences significant adverse effects from formulary agents; formulary agents result in therapeutic failure; the patient previously responded to a non-

formulary agent and changing to a formulary agent would incur unacceptable clinical risk; or there is no alternative agent on the formulary.

For prescriptions submitted to the NMOP, information to justify the clinical necessity for use of a non-formulary agent should be submitted with the prescription. The beneficiary may also submit information to justify the clinical necessity for use of a non-formulary agent to the NMOP after the prescription has been filled. If clinical necessity for use of a non-formulary agent is validated, then the patient will receive a refund for the co-pay differential. For prescriptions submitted to a retail network pharmacy, the beneficiary will submit information to justify the clinical necessity for use of a non-formulary agent to the servicing TRICARE contractor and request a refund for the difference in the cost between the formulary and non-formulary pharmaceutical agent. Determinations of the clinical necessity for use of a non-formulary agent will undergo a peer review.

If the request for the difference is denied, either the beneficiary or provider may appeal the decision under section 199.10 of this Part.

K. Department of Defense Pharmacy and Therapeutics Committee

The Department of Defense Pharmacy and Therapeutics Committee will develop the uniform formulary of pharmaceutical agents. The committee will review the formulary on a periodic basis, and make additional recommendations regarding the formulary as the committee determines necessary and appropriate to the Director, TRICARE Management Activity. The committee shall include representatives of pharmacies of the uniformed service treatment facilities, contractors responsible for the TRICARE retail pharmacy program, contractors responsible for the national mail order pharmacy program, providers in facilities of the uniformed services, and TRICARE network providers. Committee members will have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations.

The committee will identify therapeutic classes of pharmaceutical agents. The committee will consider the clinical and cost effectiveness of pharmaceutical agents relative to other agents in the class, following the guidelines contained in this regulation. Therapeutic drug class reviews will be

conducted on a scheduled, periodic basis, as determined by the committee.

L. Uniform Formulary Beneficiary Advisory Panel

A Uniform Formulary Beneficiary Advisory Panel will be established to review and comment on the development of the uniform formulary. The panel will meet after each Pharmacy and Therapeutics Committee quarterly meeting. The panel's comments will be submitted to the Director, TRICARE Management Activity. The Director will consider the comments before implementing the uniform formulary or any recommendations for change made by the Pharmacy and Therapeutics Committee.

M. Mandatory Generic Substitution

Mandatory substitution of generic drugs listed with an "A" rating in the current Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) (or any successor) published by the Food and Drug Administration and generic equivalents of grandfather or Drug Efficacy Study Implementation (DESI) category drugs is required for brand name drugs.

Brand name drugs will be available at the non-formulary co-pay when dispensed in lieu of a generic equivalent if selection of the branded product is based solely on the personal preference of the provider or beneficiary. Section J of this preamble describes the process for obtaining non-formulary drugs at the formulary co-pay in situations of clinical necessity.

N. Regulatory Procedures

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of \$100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action. Cost-shares for generic and formulary pharmaceutical agents were addressed in the implementation of the TRICARE Senior Pharmacy benefit earlier this year. Approximately 1.5 million persons are potential beneficiaries of this program, and expected benefits per person are

approximately \$2,000 per year. This rule includes the addition of a third tier to the formulary cost-share structure by adding non-formulary pharmaceutical agents, which will have an impact of less than \$100 million. The rule, although not economically significant under Executive Order 12866, is significant under Executive Order 12866, and has been reviewed by the Office of Management and Budget.

This rule is not a major rule under the Congressional Review Act. This rule does not require a regulatory flexibility analysis as it would have no significant economic impact on a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Health care, Health insurance, Military personnel, Pharmacy benefits.

Accordingly, 32 CFR Part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.2(b) is amended by adding a sentence at the end of the current definition of Prescription drugs and medicines to read as follows:

§ 199.2 Definitions.

* * * * *

(b) *Prescription drugs and medicines.*
* * * Prescription drugs and medicines may also be referred to as "pharmaceutical agents".
* * * * *

3. Revises § 199.21 to read as follows:

§ 199.21 Pharmacy Benefits Program.

(a) *General.*—(1) *Statutory authority.* Title 10, U.S. Code, Section 1074g requires that the Department of Defense establish an effective, efficient, integrated Pharmacy Benefits Program for the Military Health System. This law is independent of a number of sections of Title 10 and other laws that affect the benefits, rules, and procedures of TRICARE, resulting in changes to the rules otherwise applicable to TRICARE Prime, Standard, and Extra.

(2) *Uniform Formulary.* The Pharmacy Benefits Program features a Uniform Formulary of pharmaceutical agents.

(i) The Uniform Formulary will assure the availability of pharmaceutical agents in the complete range of therapeutic classes authorized as basic program

benefits. Pharmaceutical agents are prescription drugs and medicines as defined in § 199.2. A therapeutic class is defined as a group of drugs that are similar in chemical structure, pharmacological effect, or clinical use.

(ii) As required by 10 U.S.C. 1074g(a)(2) and implemented under the procedures established by paragraphs (d) and (e) of this section, pharmaceutical agents in each therapeutic class are selected for inclusion on the Uniform Formulary based upon the relative clinical effectiveness and cost effectiveness of the agents in such class. If a pharmaceutical agent in a therapeutic class is determined by the Pharmacy and Therapeutics Committee not to have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over other pharmaceutical agents included on the Uniform Formulary, it may be classified as a non-formulary agent. In addition, if the evaluation of the Pharmacy and Therapeutics Committee concludes that a pharmaceutical agent in a therapeutic class is not cost effective relative to other pharmaceutical agents in a therapeutic class, considering costs, safety, effectiveness, and clinical outcomes, it may be classified as a non-formulary agent.

(iii) Pharmaceutical agents that are used exclusively for medical conditions that are expressly excluded from the TRICARE benefit by statute or regulation will not be considered for inclusion on the Uniform Formulary.

(b) *Department of Defense Pharmacy and Therapeutics Committee.*—(1) *Purpose.* The Department of Defense Pharmacy and Therapeutics Committee is established by 10 U.S.C. 1074g to assure that the selection of pharmaceutical agents for the Uniform Formulary is based on broadly representative professional expertise concerning relative clinical and cost effectiveness of pharmaceutical agents and accomplishes an effective, efficient, integrated Pharmacy Benefits Program. The Committee will function consistent with the Federal Advisory Committee Act (5 U.S.C. App. 2).

(2) *Composition.* As required by 10 U.S.C. 1074g(b), the committee includes representatives of pharmacies of the uniformed service treatment facilities, contractor(s) responsible for the TRICARE retail pharmacy program, contractor(s) responsible for the National Mail Order Pharmacy (NMOP) program, providers in facilities of the uniformed services, and TRICARE network providers. Committee members will have expertise in treating the

medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations.

(3) *Executive Council.* The Pharmacy and Therapeutics Committee has an Executive Council, composed of those voting and non-voting members of the Committee who are military members or civilian employees of the Department of Defense. The function of the Executive Council is to review and analyze issues relating to the operation of the Uniform Formulary, including issues of an inherently governmental nature, procurement sensitive information, and matters affecting military readiness. The Executive Council presents information to the Pharmacy and Therapeutics Committee, but is not authorized to act for the Committee.

(c) *Uniform Formulary Beneficiary Advisory Panel.* As required by 10 U.S.C 1074g(c), a Uniform Formulary Beneficiary Advisory Panel reviews and comments on the development of the Uniform Formulary. The Panel includes members that represent non-governmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries. The panel will meet after each Pharmacy and Therapeutics Committee quarterly meeting. The Panel's comments will be submitted to the Director, TRICARE Management Activity. The Director will consider the comments before implementing the Uniform Formulary or any recommendations for change made by the Pharmacy and Therapeutics Committee. The Panel will function in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2).

(d) *Determinations regarding relative clinical and cost effectiveness for the selection of pharmaceutical agents for the Uniform Formulary.*—(1) *Clinical effectiveness.* (i) It is presumed that pharmaceutical agents in a therapeutic class are clinically effective and should be included on the Uniform Formulary unless the Pharmacy and Therapeutics Committee finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other pharmaceutical agents included on the Uniform Formulary in that therapeutic class. This determination is based on the collective professional judgment of the DoD Pharmacy and Therapeutics Committee and consideration of pertinent information from a variety of sources determined by the Committee to be relevant and reliable. The DoD

Pharmacy and Therapeutics Committee has discretion based on its collective professional judgment in determining what sources should be reviewed or relied upon in evaluating the clinical effectiveness of a pharmaceutical agent in a therapeutic class.

(ii) Sources of information may include but are not limited to:

(A) Medical and pharmaceutical textbooks and reference books.

(B) Clinical literature.

(C) U.S. Food and Drug Administration determinations and information.

(D) Information from pharmaceutical companies.

(E) Clinical practice guidelines.

(F) Expert opinion.

(iii) The DoD Pharmacy and Therapeutics Committee will evaluate the relative clinical effectiveness of drugs within a therapeutic class by considering information about their safety, effectiveness, and clinical outcome.

(iv) Information considered by the Committee may include but is not limited to:

(A) U.S. Food and Drug Administration approved and other studied indications.

(B) Pharmacology.

(C) Pharmacokinetics.

(D) Contraindications.

(E) Warnings/precautions.

(F) Incidence and severity of adverse effects.

(G) Drug to drug, drug to food, and drug to disease interactions.

(H) Availability, dosing, and method of administration.

(I) Epidemiology and relevant risk factors for diseases/conditions in which the drugs are used.

(J) Concomitant therapies.

(K) Results of safety and efficacy studies.

(L) Results of effectiveness/clinical outcomes studies.

(M) Results of meta-analyses.

(2) *Cost effectiveness.* (i) In considering the relative cost effectiveness of pharmaceutical agents in a therapeutic class, the DoD Pharmacy and Therapeutics Committee shall evaluate the costs of the agents in relation to the safety, effectiveness, and clinical outcomes of the other agents in the class.

(ii) Information considered by the Committee concerning the relative cost effectiveness of pharmaceutical agents may include but is not limited to:

(A) Cost of the drug to the Government.

(B) Impact on overall medical resource utilization and costs.

(C) Cost-efficacy studies.

(D) Cost-effectiveness studies.

(E) Cross-sectional or retrospective economic evaluations.

(F) Pharmacoeconomic models.

(G) Patent expiration dates.

(H) Clinical practice guideline recommendations.

(I) Existence of existing blanket purchase agreements, incentive price agreements, or contracts.

(e) *Evaluation of pharmaceutical agents for determinations regarding inclusion on the Uniform Formulary.* The DoD Pharmacy and Therapeutics Committee will periodically evaluate or reevaluate individual drugs and drug classes for determinations regarding inclusion or continuation on the Uniform Formulary. Evaluation or reevaluation of individual drugs or drug classes may be prompted by a variety of circumstances including, but not limited to:

(1) Approval of a new drug by the U.S. Food and Drug Administration;

(2) Approval of a new indication for an existing drug;

(3) Changes in the clinical use of existing drugs;

(4) New information concerning the safety, effectiveness or clinical outcomes of existing drugs;

(5) Price changes;

(6) Shifts in market share;

(7) Scheduled review of a therapeutic class; and

(8) Requests from Pharmacy and Therapeutics Committee members, military treatment facilities, or other Military Health System officials.

(f) *Administrative procedures for establishing and maintaining the Uniform Formulary.* (1) Determinations of the Pharmacy and Therapeutics Committee are recorded in minutes of Committee meetings. The minutes set forth the determinations of the Committee regarding the pharmaceutical agents selected for inclusion in the Uniform Formulary and summarize the reasons for those determinations. The minutes will include a record of the number of members voting for and against the Committee's action.

(2) Comments and recommendations of the Beneficiary Advisory Panel are recorded in minutes of Panel meetings. The minutes set forth the comments and recommendations of the Panel and summarize the reasons for those comments and recommendations. The minutes will include a record of the number of members voting for or against the Panel's comments and recommendations.

(3) The Director of the TRICARE Management Activity makes the final DoD decisions regarding the Uniform

Formulary. Those decisions are based on the Director's review of the final determinations of the Pharmacy and Therapeutics Committee and the comments and recommendations of the Beneficiary Advisory Panel. No pharmaceutical agent may be designated as non-formulary on the Uniform Formulary unless it is preceded by such recommendation by the Pharmacy and Therapeutics Committee. The decisions of the Director of the TRICARE Management Activity are in writing and establish the effective date(s) of the Uniform Formulary actions.

(g) *Obtaining pharmacy services under the Pharmacy Benefits Program.*—(1) *Points of service.* There are four outpatient pharmacy points of service: Military Treatment Facilities (MTFs), retail network pharmacies, retail non-network pharmacies, and the National Mail Order Pharmacy (NMOP). Retail network pharmacies are those non-MTF pharmacies that are a part of the network established for TRICARE Prime under § 199.17. Retail non-network pharmacies are those non-MTF pharmacies that are not part of such a network.

(2) *Availability of formulary drugs.*—(i) *General.* Subject to paragraph (g)(2)(ii) of this section, formulary drugs are available under the Pharmacy Benefits Program from all of the points of service identified in paragraph (g)(1) of this section.

(ii) *Availability of formulary drugs at military treatment facilities.* Pharmaceutical agents included on the Uniform Formulary are available through MTFs, consistent with the scope of health care services offered in such facilities. The Basic Core Formulary (BCF) is a subset of the Uniform Formulary and is a mandatory component of all MTF pharmacy formularies. The BCF contains the minimum set of drugs that each MTF pharmacy must have on its formulary to support the primary care scope of practice for Primary Care Manager enrollment sites. Additions to individual MTF formularies are determined by local Pharmacy and Therapeutics Committees based on the scope of health care services provided at the respective MTFs. All drugs on the local MTF formulary must be available to all categories of beneficiaries.

(3) *Availability of non-formulary drugs.*—(i) *General.* Non-formulary pharmaceutical agents are generally available under the Pharmacy Benefits Program from retail network pharmacies, retail non-network pharmacies, and the National Mail Order Pharmacy (NMOP).

(ii) *Availability of non-formulary drugs at military treatment facilities.* Non-formulary pharmaceutical agents will be available to eligible covered beneficiaries through the MTF pharmacies only for prescriptions written by MTF providers and approved through the non-formulary special order process that validates the medical necessity for use of the non-formulary pharmaceutical agent.

(iii) *Availability of clinically appropriate non-formulary pharmaceutical agents to members of the Uniformed Services.* The Pharmacy Benefits Program is required to assure the availability of clinically appropriate pharmaceutical agents to members of the uniformed services, including, where appropriate, agents not included on the Uniform Formulary. MTFs shall establish procedures to evaluate the clinical appropriateness of prescriptions written for members of the uniformed services for pharmaceutical agents not included on the uniform formulary. If it is determined that the prescription is clinically appropriate, the MTF will provide the pharmaceutical agent to the member. TRICARE will conduct an evaluation for clinical appropriateness when a member presents a prescription for a non-formulary pharmaceutical agent to a retail pharmacy or the NMOP.

(h) *Cost-sharing under the Pharmacy Benefits Program.*—(1) *General.* Under 10 U.S.C. 1074g(a)(6), cost-sharing requirements (independent of those established under other provisions of this Part) are established in this section for the Pharmacy Benefits Program. Cost-sharing requirements are based on the classification of a pharmaceutical agent as generic, formulary, or non-formulary, in conjunction with the point of service from which the agent is acquired.

(2) *Cost-sharing amounts.* Active duty members of the uniformed services do not pay cost-shares. For other categories of beneficiaries, cost-sharing amounts are as follows:

(i) For pharmaceutical agents obtained from a military treatment facility, there is no co-pay.

(ii) For pharmaceutical agents obtained from a retail network pharmacy there is a:

(A) \$9.00 co-pay per prescription required for up to a 30-day supply of a formulary pharmaceutical agent.

(B) \$3.00 co-pay per prescription for up to a 30-day supply of a generic pharmaceutical agent.

(C) \$22.00 co-pay per prescription for up to a 30-day supply of a non-formulary pharmaceutical agent.

(iii) For formulary and generic pharmaceutical agents obtained from a

retail non-network pharmacy there is a 20 percent or \$9.00 co-pay (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

(iv) For non-formulary pharmaceutical agents obtained at a retail non-network pharmacy there is a 20 percent or \$22.00 co-pay (whichever is greater) per prescription for up to a 30-day supply of the pharmaceutical agent.

(v) For pharmaceutical agents obtained under the NMOP program there is a:

(A) \$9.00 co-pay per prescription for up to a 90-day supply of a formulary pharmaceutical agent.

(B) \$3.00 co-pay for up to a 90-day supply of a generic pharmaceutical agent.

(C) \$22.00 co-pay for up to a 90-day supply of a non-formulary pharmaceutical agent.

(vi) A point of service cost-share of 50 percent applies in lieu of the 20 percent co-pay for TRICARE Prime beneficiaries who obtain prescriptions from retail non-network pharmacies.

(vii) Except as provided in paragraph (h)(2)(viii) of this section, for pharmaceutical agents acquired by TRICARE Standard beneficiaries from retail non-network pharmacies, beneficiaries are subject to the \$150.00 per individual or \$300.00 maximum per family annual fiscal year deductible.

(viii) Under TRICARE Standard, dependents of members of the uniformed services whose pay grade is E-4 or below are subject to the \$50.00 per individual or \$100.00 maximum per family annual fiscal year deductible.

(ix) The TRICARE catastrophic cap limits apply to Pharmacy Benefits Program cost-sharing.

(x) The \$22 per prescription co-pay established in this paragraph (h)(2) of this section may be adjusted periodically (but no more frequently than annually unless necessary to comply with a statutory requirement) based on experience with the Uniform Formulary, changes in economic circumstances, and other appropriate factors. Any such adjustment must be made upon the recommendation of the Pharmacy and Therapeutics Committee and approved by the Assistant Secretary of Defense (Health Affairs). Any such adjusted amount will maintain compliance with the requirements of 10 U.S.C. 1074g(a)(6).

(3) *Special cost-sharing rule when there is a clinical necessity for use of a non-formulary drug.* (i) When there is a clinical necessity for the use of a non-formulary pharmaceutical agent that is not otherwise excluded as a covered

benefit, the drug or medicine will be provided at the same co-pay as a formulary pharmaceutical agent can be obtained.

(ii) A clinical necessity for use of a non-formulary drug is established when the beneficiary or their provider submits sufficient information to show that one or more of the following conditions exist:

(A) The use of formulary agents is contraindicated;

(B) The patient experiences significant adverse effects from formulary agents;

(C) Formulary agents result in therapeutic failure;

(D) The patient previously responded to a non-formulary agent and changing to a formulary agent would incur unacceptable clinical risk; or

(E) There is no alternative agent on the formulary.

(iii) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent should be provided to TRICARE for prescriptions submitted to a retail network pharmacy.

(iv) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent should be provided as part of the claims processes for non-formulary pharmaceuticals obtained through non-network points of service, claims as a result of other health insurance, or any other situations requiring the submission of a manual claim.

(v) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent may be provided with the prescription submitted to the NMOP.

(vi) Information to establish clinical necessity for use of a non-formulary pharmaceutical agent may also be provided at a later date as an appeal to reduce the non-formulary co-pay to the same co-pay as a formulary drug.

(vii) The process of establishing clinical necessity will not unnecessarily delay the dispensing of a prescription. In situations where clinical necessity can not be determined in a timely manner, the non-formulary pharmaceutical will be dispensed at the non-formulary co-pay and a refund provided to the beneficiary should clinical necessity be established.

(i) *Use of generic drugs under the Pharmacy Benefits Program.* (1) The designation of a drug as a generic, for the purpose of applying cost-shares at the generic rate, will be determined through the use of standard pharmaceutical references as part of commercial best business practices. Drugs will be designated as generics when listed with an "A" rating in the

current Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) published by the Food and Drug Administration, or any successor to such reference. Generics are multisource products that must contain the same active ingredients, are of the same dosage form, route of administration and are identical in strength or concentration.

(2) The Pharmacy Benefits Program generally requires mandatory substitution of generic drugs when available. Brand name drugs will be available at the non-formulary co-pay when dispensed in lieu of a generic equivalent if selection of the branded product is based solely on the personal preference of the provider or beneficiary. In cases in which there is a clinical justification for a brand name drug in lieu of a generic equivalent, under the standards and procedures of paragraph (h)(3) of this section, the generic substitution policy is waived.

(3) When a blanket purchase agreement, incentive price agreement, or other Government contract action results in a brand pharmaceutical agent being the most cost effective agent for purchase by the Government, the Pharmacy and Therapeutics Committee may also designate that the drug be cost-shared at the generic rate.

(j) *Preauthorization of certain pharmaceutical agents.* Selected pharmaceutical agents may be subject to prior authorization or utilization review requirements to assure medical necessity, clinical appropriateness and/or cost effectiveness. The Pharmacy and Therapeutics Committee will assess the need to prior authorize a given agent by considering the relative clinical and cost effectiveness of agents within a therapeutic class. Agents that require prior authorization will be identified by a majority vote of the Pharmacy and Therapeutics Committee. The Pharmacy and Therapeutics Committee will establish the prior authorization criteria for the agent.

(k) *TRICARE Senior Pharmacy Program.* Section 711 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398, 114 Stat. 1654A-175) established the TRICARE Senior Pharmacy Program for Medicare eligible beneficiaries effective April 1, 2001. These beneficiaries are required to meet the eligibility criteria as prescribed in § 199.3. The benefit under the TRICARE Senior Pharmacy Program applies to prescription drugs and medicines provided on or after April 1, 2001.

(l) *Effect of other health insurance.* The double coverage rules of § 199.8 are applicable to services provided under

the Pharmacy Benefits Program. For this purpose, to the extent they provide a prescription drug benefit, Medicare supplemental insurance plans or Medicare HMO plans are double coverage plans and will be the primary payor.

(m) *Procedures.* The Director, TRICARE Management Activity shall establish procedures for the effective operation of the Pharmacy Benefits Program. Such procedures may include restrictions of the quantity of pharmaceuticals to be included under the benefit, encouragement of the use of generic drugs, implementation of quality assurance and utilization management activities, and other appropriate matters.

Dated: April 4, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-8615 Filed 4-11-02; 8:45 am]

BILLING CODE 5001-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 96, and 97

[FRL-7170-9]

Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: Today, EPA is extending the closing date of the public comment period regarding EPA's notice of proposed rulemaking "Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules," published February 22, 2002 at 67 FR 8395. The original comment period was to close on April 15, 2002. The new closing date will be April 29, 2002. The EPA received a request to extend the comment period due to the complexity of the issues surrounding the actions EPA is proposing to take. We find it appropriate to provide additional time for interested and affected parties to submit comments. All comments received by EPA on or prior to April 29, 2002 will be considered in the development of a final rule.

DATES: All comments regarding EPA's notice of proposed rulemaking issued on February 22, 2002 must be

postmarked, faxed, or e-mailed to EPA on or before close of business April 29, 2002 instead of April 15, 2002.

ADDRESSES: Comments (in duplicate if possible) may be submitted to the Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-96-56, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, telephone (202) 260-7548, fax (202) 260-4400, and e-mail *A-and-R-docket@epa.gov*. We encourage electronic submissions of comments and data following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information should be submitted through e-mail.

Documents relevant to this action, including the proposed notice, are available for inspection at the U.S. Environmental Protection Agency, 401 M Street, SW, Waterside Mall, Room M-1500, Washington, DC 20460, between 8 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to Jan King, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-02, Research Triangle Park, NC 27711, telephone (919) 541-5665, e-mail *king.jan@epa.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule (67 FR 8395) addresses the issues remanded or vacated for notice-and-comment rulemaking by the D.C. Circuit in *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000), *cert. denied*, 121 S. Ct. 1225, 149 L. Ed. 135 (2001), which concerned the NO_x SIP Call (the "SIP call case"); *Appalachian Power v. EPA*, 251 F.3d 1026 (D.C. Cir. 2001), which concerned the technical amendments rulemakings for the NO_x SIP Call (the "Technical Amendments case"); and *Appalachian Power v. EPA*, 249 F.3d 1042 (D.C. Cir. 2001) and *Appalachian Power v. EPA*, No.99-1200, Order (D.C. Cir., August 24, 2001), which concerned the section 126 rulemaking (the "Section 126 case").

In the proposed rule, EPA proposed to:

(1) Retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call and in the Section 126 Rule, and retain the definition of EGUs as it relates to cogeneration units in the NO_x SIP Call with only minor revisions to make the definition consistent with the Section 126 Rule;

(2) revise the control levels for stationary internal combustion engines that were assumed in calculating NO_x SIP call budgets for each State;

(3) exclude portions of Georgia, Missouri, Alabama and Michigan from the NO_x SIP Call (the court ruling focused on Georgia and Missouri, but the same issue is relevant to Alabama and Michigan);

(4) revise statewide emissions budgets in the NO_x SIP Call to reflect the disposition of the first three issues above;

(5) set a range of dates for 19 States and the District of Columbia to submit State implementation plans to achieve the emissions reductions required by this second phase of the NO_x SIP Call, and for Georgia and Missouri to submit SIPs meeting the full NO_x SIP Call: 6 months through 1 year from final promulgation of this rulemaking but no later than April 1, 2003;

(6) set a compliance date of May 31, 2004, for all sources except those in Georgia and Missouri; and sources in those two States would have a May 1, 2005 compliance date; and

(7) exclude Wisconsin from NO_x SIP Call requirements at this time.

The comment period provided in the proposed rule was to close on April 15, 2002. Today's action extends the date by which the comment period closes to April 29, 2002.

Dated: April 5, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02-8929 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NV 021-0049b; FRL-7167-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the maintenance plan for the Steptoe Valley Central area in Nevada and grant the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards for sulfur dioxide (SO₂).

DATES: Comments on this proposal must be received by May 13, 2002.

ADDRESSES: Please address your comments to the following EPA contact. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours.

Environmental Protection Agency, Region 9, Air Division, Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the address listed below:

Nevada Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT:

Valerie Cooper, Grants and Program Integration Office (AIR-8), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. Telephone: (415) 947-4103. E-mail: *Cooper.Valerie@epa.gov*

SUPPLEMENTARY INFORMATION:

In the Rules and Regulations section of this **Federal Register**, we are approving the maintenance plan for the Steptoe Valley—Central SO₂ nonattainment area. We are also approving the State of Nevada's request to redesignate the Steptoe Valley area from nonattainment to attainment for the primary SO₂ NAAQS. We are taking these actions without prior proposal because we believe that the revision and request are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 24, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 02-8290 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-7170-4]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (“OCS”) Air Regulations. Requirements applying to OCS sources located within 25 miles of states’ seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (“COA”), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (“the Act”). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before May 13, 2002.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XXV, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A-93-16 Section XXV. This docket is available for public inspection and copying Monday—Friday during regular business hours at the following locations:

EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XXV, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE-131), Attn: Air Docket No. A-93-16 Section XXV, Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne

Street, San Francisco, CA 94105, (415) 947-4125.

I. Background Information

A. Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state’s seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by three local air pollution control agencies. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states’ seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA’s flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA’s state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA’s Evaluation

A. What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,² and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What Rule Revisions Were Submitted To Update 40 CFR Part 55?

1. After review of the rule submitted by the Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revision applicable to sources for which the Santa Barbara County APCD is designated as the COA:

Rule No.	Rule name	Adoption date
323	Architectural coatings.	11/15/01

2. After review of the rules submitted by South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revisions applicable to OCS sources for which the South Coast AQMD is designated as the COA (note: no requirements that are not related to the attainment and maintenance of federal and state ambient air quality standards will be incorporated to regulate toxics):

² Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4)

Rule No.	Rule names	Adoption date
102	Definition of Terms ..	10/19/01
208	Permit and Burn Authorization for Open Burning.	12/21/01
401	Visible Emissions	11/9/01
444	Open Burning	12/21/01
518.2	Federal Alternative Operating Conditions.	12/21/01
1107	Coating of Metal Parts and Products.	11/9/01
1113	Architectural Coatings.	7/20/01
1122	Solvent Degreasers	9/21/01

The following new rule was submitted:

Rule No.	Rule name	Adoption date
1178	Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities.	12/21/01

The following rule was submitted, but will not be incorporated because it does not apply:

Rule No.	Rule name	Adoption date
1634	Pilot Credit Generation Pilot Program for Truck Stops.	11/9/01

The following rule has been rescinded by the District and will be removed from South Coast AQMD requirements applicable to apply to OCS sources:

Rule No.	Rule name	Rescinded date
708	Plans	9/08/95

3. After review of the rule submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revision applicable to OCS sources for which the Ventura County APCD is designated as the COA:

Rule No.	Rule name	Adoption date
74.2	Architectural coatings.	11/13/01

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental

Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because consistency updates do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the consistency update approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

H. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant action under Executive Order 12866.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 3, 2002.

Wayne Nastri,
Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101-549.

2. Section 55.14 is proposed to be amended by revising paragraphs (e) (3)(ii) (F), (G) and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *
(3) * * *
(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources.*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

Appendix to Part 55—[Amended]

3. Appendix A to 40 CFR part 55 is proposed to be amended by revising paragraph (b)(6), (7) and (8) under the heading "California" to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

* * * * *

California

* * * * *

(b) Local requirements.

* * * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources*:

- Rule 102 Definitions (Adopted 5/20/99)
- Rule 103 Severability (Adopted 10/23/78)
- Rule 106 Notice to Comply for Minor Violations (Adopted 7/15/99)
- Rule 201 Permits Required (Adopted 4/17/97)
- Rule 202 Exemptions to Rule 201 (Adopted 4/17/97)
- Rule 203 Transfer (Adopted 4/17/97)
- Rule 204 Applications (Adopted 4/17/97)
- Rule 205 Standards for Granting Applications (Adopted 4/17/97)
- Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
- Rule 207 Denial of Application (Adopted 10/23/78)
- Rule 210 Fees (Adopted 4/17/97)
- Rule 212 Emission Statements (Adopted 10/20/92)
- Rule 301 Circumvention (Adopted 10/23/78)
- Rule 302 Visible Emissions (Adopted 10/23/78)
- Rule 304 Particulate Matter—Northern Zone (Adopted 10/23/78)
- Rule 305 Particulate Matter Concentration—Southern Zone (Adopted 10/23/78)
- Rule 306 Dust and Fumes—Northern Zone (Adopted 10/23/78)
- Rule 307 Particulate Matter Emission Weight Rate—Southern Zone (Adopted 10/23/78)
- Rule 308 Incinerator Burning (Adopted 10/23/78)
- Rule 309 Specific Contaminants (Adopted 10/23/78)
- Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
- Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
- Rule 312 Open Fires (Adopted 10/2/90)
- Rule 316 Storage and Transfer of Gasoline (Adopted 4/17/97)
- Rule 317 Organic Solvents (Adopted 10/23/78)
- Rule 318 Vacuum Producing Devices or Systems—Southern Zone (Adopted 10/23/78)
- Rule 321 Solvent Cleaning Operations (Adopted 9/18/97)
- Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
- Rule 323 Architectural Coatings (Adopted 11/15/01)
- Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
- Rule 325 Crude Oil Production and Separation (Adopted 7/19/01)
- Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 1/18/01)
- Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
- Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
- Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 1/20/00)
- Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)

- Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
- Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 4/17/97)
- Rule 342 Control of Oxides of Nitrogen (NO_x) from Boilers, Steam Generators and Process Heaters (Adopted 4/17/97)
- Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
- Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
- Rule 346 Loading of Organic Liquid Cargo Vessels (Adopted 01/18/01)
- Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Adopted 9/16/99)
- Rule 353 Adhesives and Sealants (Adopted 8/19/99)
- Rule 359 Flares and Thermal Oxidizers (6/28/94)
- Rule 370 Potential to Emit—Limitations for Part 70 Sources (Adopted 6/15/95)
- Rule 505 Breakdown Conditions Sections A., B.1., and D. only (Adopted 10/23/78)
- Rule 603 Emergency Episode Plans (Adopted 6/15/81)
- Rule 702 General Conformity (Adopted 10/20/94)
- Rule 801 New Source Review (Adopted 4/17/97)
- Rule 802 Nonattainment Review (Adopted 4/17/97)
- Rule 803 Prevention of Significant Deterioration (Adopted 4/17/97)
- Rule 804 Emission Offsets (Adopted 4/17/97)
- Rule 805 Air Quality Impact Analysis and Modeling (Adopted 4/17/97)
- Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 5/20/99)
- Rule 1301 Part 70 Operating Permits—General Information (Adopted 4/17/97)
- Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
- Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/09/93)
- Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/09/93)
- Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)
- (7) *The following requirements are contained in South Coast Air Quality Management District Requirements Applicable to OCS Sources (Parts I, II and III):*
- Rule 102 Definition of Terms (Adopted 10/19/01)
- Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
- Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
- Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
- Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 8/18/00)
- Rule 112 Definition of Minor Violation and Guidelines for Issuance of Notice to Comply (Adopted 11/13/98)
- Rule 118 Emergencies (Adopted 12/7/95)
- Rule 201 Permit to Construct (Adopted 1/5/90)
- Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
- Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
- Rule 203 Permit to Operate (Adopted 1/5/90)
- Rule 204 Permit Conditions (Adopted 3/6/92)
- Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
- Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
- Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
- Rule 208 Permit and Burn Authorization for Open Burning (12/21/01)
- Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
- Rule 210 Applications and Regulation II—List and Criteria Identifying Information required of Applicants Seeking a Permit to Construct from the SCAQMD (Adopted 4/10/98)
- Rule 212 Standards for Approving Permits (Adopted 12/7/95) except (c)(3) and (e)
- Rule 214 Denial of Permits (Adopted 1/5/90)
- Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
- Rule 218 Continuous Emission Monitoring (Adopted 5/14/99)
- Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 5/14/99)
- Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 5/14/99)
- Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 11/17/00)
- Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
- Rule 221 Plans (Adopted 1/4/85)
- Rule 301 Permit Fees (Adopted 5/11/01) except (e)(7) and Table IV
- Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/11/01)
- Rule 304.1 Analyses Fees (Adopted 5/11/01)
- Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
- Rule 306 Plan Fees (Adopted 5/11/01)
- Rule 309 Fees for Regulation XVI Plans (Adopted 5/11/01)
- Rule 401 Visible Emissions (Adopted 11/9/01)
- Rule 403 Fugitive Dust (Adopted 12/11/98)
- Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
- Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
- Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
- Rule 408 Circumvention (Adopted 5/7/76)
- Rule 409 Combustion Contaminants (Adopted 8/7/81)
- Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
- Rule 430 Breakdown Provisions, (a) and (e) only (Adopted 7/12/96)
- Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 6/12/98)
- Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 9/15/00)
- Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
- Rule 441 Research Operations (Adopted 5/7/76)
- Rule 442 Usage of Solvents (Adopted 12/15/00)
- Rule 444 Open Burning (Adopted 12/21/01)
- Rule 463 Organic Liquid Storage (Adopted 3/11/94)
- Rule 465 Vacuum Producing Devices or Systems (Adopted 8/13/99)
- Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
- Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
- Rule 474 Fuel Burning Equipment—Oxides of Nitrogen (Adopted 12/4/81)
- Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
- Rule 476 Steam Generating Equipment (Adopted 10/8/76)
- Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77) Addendum to Regulation IV (Effective 1977)
- Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
- Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
- Rule 518.2 Federal Alternative Operating Conditions (Adopted 12/21/01)
- Rule 701 Air Pollution Emergency Contingency Actions (Adopted 6/13/97)
- Rule 702 Definitions (Adopted 7/11/80)
- Rule 708 Plans (Rescinded 9/8/95)
- Regulation IX—New Source Performance Standards (Adopted 5/11/01)
- Reg. X National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 5/11/01)
- Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
- Rule 1107 Coating of Metal Parts and Products (Adopted 11/9/01)
- Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
- Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/14/97)
- Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
- Rule 1110.2 Emissions from Gaseous- and Liquid Fueled Internal Combustion Engines (Adopted 11/14/97)
- Rule 1113 Architectural Coatings (Adopted 7/20/01)
- Rule 1116.1 Lightering Vessel Operations—Sulfur Content of Bunker Fuel (Adopted 10/20/78)
- Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/10/99)
- Rule 1122 Solvent Degreasers (Adopted 9/21/01)
- Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
- Rule 1125 Metal Containers, Closure, and Coil Coating Operations (Adopted 1/13/95)
- Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilities (Adopted 1/19/01)
- Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/8/97)

- Rule 1136 Wood Products Coatings (Adopted 6/14/96)
- Rule 1140 Abrasive Blasting (Adopted 8/2/85)
- Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
- Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 11/17/00)
- Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, steam Generators, and Process Heaters (Adopted 5/13/94)
- Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 1/9/98)
- Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
- Rule 1149 Storage Tank Degassing (Adopted 7/14/95)
- Rule 1168 Adhesive and Sealant Applications (Adopted 9/15/00)
- Rule 1171 Solvent Cleaning Operations (Adopted 10/8/99)
- Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)
- Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
- Rule 1178 Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities (Adopted 12/21/01)
- Rule 1301 General (Adopted 12/7/95)
- Rule 1302 Definitions (Adopted 10/20/00)
- Rule 1303 Requirements (Adopted 4/20/01)
- Rule 1304 Exemptions (Adopted 6/14/96)
- Rule 1306 Emission Calculations (Adopted 10/20/00)
- Rule 1313 Permits to Operate (Adopted 12/7/95)
- Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
- Rule 1605 Credits for the Voluntary Repair of On-Road Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
- Rule 1610 Old-Vehicle Scrapping (Adopted 2/12/99)
- Rule 1612 Credits for Clean On-Road Vehicles (Adopted 7/10/98)
- Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 3/16/01)
- Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 7/10/98)
- Rule 1701 General (Adopted 8/13/99)
- Rule 1702 Definitions (Adopted 8/13/99)
- Rule 1703 PSD Analysis (Adopted 10/7/88)
- Rule 1704 Exemptions (Adopted 8/13/99)
- Rule 1706 Emission Calculations (Adopted 8/13/99)
- Rule 1713 Source Obligation (Adopted 10/7/88)
- Regulation XVII Appendix (effective 1977)
- Rule 1901 General Conformity (Adopted 9/9/94)
- Rule 2000 General (Adopted 5/11/01)
- Rule 2001 Applicability (Adopted 2/14/97)
- Rule 2002 Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x) Emissions (Adopted 5/11/01)
- Rule 2004 Requirements (Adopted 5/11/01) except (l)
- Rule 2005 New Source Review for RECLAIM (Adopted 4/20/01) except (i)
- Rule 2006 Permits (Adopted 5/11/01)
- Rule 2007 Trading Requirements (Adopted 5/11/01)
- Rule 2008 Mobile Source Credits (Adopted 10/15/93)
- Rule 2010 Administrative Remedies and Sanctions (Adopted 5/11/01)
- Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_x) Emissions (Adopted 5/11/01)
- Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 3/10/95)
- Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_x) Emissions (Adopted 5/11/01)
- Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 3/10/95)
- Rule 2015 Backstop Provisions (Adopted 5/11/11) except (b)(1)(G) and (b)(3)(B)
- Rule 2020 RECLAIM Reserve (Adopted 5/11/01)
- Rule 2100 Registration of Portable Equipment (Adopted 7/11/97)
- Rule 2506 Area Source Credits for NO_x and SO_x (Adopted 12/10/99)
- XXX Title V Permits
- Rule 3000 General (Adopted 11/14/97)
- Rule 3001 Applicability (Adopted 11/14/97)
- Rule 3002 Requirements (Adopted 11/14/97)
- Rule 3003 Applications (Adopted 3/16/01)
- Rule 3004 Permit Types and Content (Adopted 12/12/97)
- Rule 3005 Permit Revisions (Adopted 3/16/01)
- Rule 3006 Public Participation (Adopted 11/14/97)
- Rule 3007 Effect of Permit (Adopted 10/8/93)
- Rule 3008 Potential To Emit Limitations (3/16/01)
- XXXI Acid Rain Permit Program (Adopted 2/10/95)
- (8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*:
- Rule 2 Definitions (Adopted 11/10/98)
- Rule 5 Effective Date (Adopted 5/23/72)
- Rule 6 Severability (Adopted 11/21/78)
- Rule 7 Zone Boundaries (Adopted 6/14/77)
- Rule 10 Permits Required (Adopted 6/13/95)
- Rule 11 Definition for Regulation II (Adopted 6/13/95)
- Rule 12 Application for Permits (Adopted 6/13/95)
- Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)
- Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)
- Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
- Rule 16 BACT Certification (Adopted 6/13/95)
- Rule 19 Posting of Permits (Adopted 5/23/72)
- Rule 20 Transfer of Permit (Adopted 5/23/72)
- Rule 23 Exemptions from Permits (Adopted 7/9/96)
- Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
- Rule 26 New Source Review (Adopted 10/22/91)
- Rule 26.1 New Source Review—Definitions (Adopted 1/13/98)
- Rule 26.2 New Source Review—Requirements (Adopted 1/13/98)
- Rule 26.6 New Source Review—Calculations (Adopted 1/13/98)
- Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
- Rule 26.10 New Source Review—PSD (Adopted 1/13/98)
- Rule 28 Revocation of Permits (Adopted 7/18/72)
- Rule 29 Conditions on Permits (Adopted 10/22/91)
- Rule 30 Permit Renewal (Adopted 5/30/89)
- Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
- Rule 33 Part 70 Permits—General (Adopted 10/12/93)
- Rule 33.1 Part 70 Permits—Definitions (Adopted 4/10/01)
- Rule 33.2 Part 70 Permits—Application Contents (Adopted 4/10/01)
- Rule 33.3 Part 70 Permits—Permit Content (Adopted 4/10/01)
- Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 4/10/01)
- Rule 33.5 Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)
- Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
- Rule 33.7 Part 70 Permits—Notification (Adopted 4/10/01)
- Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
- Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 4/10/01)
- Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
- Rule 34 Acid Deposition Control (Adopted 3/14/95)
- Rule 35 Elective Emission Limits (Adopted 11/12/96)
- Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)
- Rule 42 Permit Fees (Adopted 04/10/01)
- Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)
- Rule 45 Plan Fees (Adopted 6/19/90)
- Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
- Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)
- Rule 50 Opacity (Adopted 2/20/79)
- Rule 52 Particulate Matter—Concentration (Adopted 5/23/72)
- Rule 53 Particulate Matter—Process Weight (Adopted 7/18/72)
- Rule 54 Sulfur Compounds (Adopted 6/14/94)
- Rule 56 Open Fires (Adopted 3/29/94)
- Rule 57 Combustion Contaminants—Specific (Adopted 6/14/77)
- Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
- Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
- Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)

Rule 64 Sulfur Content of Fuels (Adopted 4/13/99)

Rule 67 Vacuum Producing Devices (Adopted 7/5/83)

Rule 68 Carbon Monoxide (Adopted 6/14/77)

Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)

Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)

Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)

Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)

Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)

Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)

Rule 72 New Source Performance Standards (NSPS) (Adopted 4/10/01)

Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 04/10/01)

Rule 74 Specific Source Standards (Adopted 7/6/76)

Rule 74.1 Abrasive Blasting (Adopted 11/12/91)

Rule 74.2 Architectural Coatings (Adopted 11/13/01)

Rule 74.6 Surface Cleaning and Degreasing (Adopted 11/10/98)

Rule 74.6.1 Cold Cleaning Operations (Adopted 7/9/96)

Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 7/9/96)

Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)

Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)

Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)

Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/95)

Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO_x (Adopted 4/9/85)

Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 9/14/99)

Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 9/10/96)

Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)

Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)

Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)

Rule 74.20 Adhesives and Sealants (Adopted 1/14/97)

Rule 74.23 Stationary Gas Turbines (Adopted 6/12/01)

Rule 74.24 Marine Coating Operations (Adopted 9/10/96)

Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 11/10/98)

Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)

Rule 74.30 Wood Products Coatings (Adopted 9/10/96)

Rule 75 Circumvention (Adopted 11/27/78)

Rule 100 Analytical Methods (Adopted 7/18/72)

Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)

Rule 102 Source Tests (Adopted 11/21/78)

Rule 103 Continuous Monitoring Systems (Adopted 2/9/99)

Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)

Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)

Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)

Rule 158 Source Abatement Plans (Adopted 9/17/91)

Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

Rule 220 General Conformity (Adopted 5/9/95)

Rule 230 Notice to Comply (Adopted 11/9/99)

* * * * *

[FR Doc. 02-8952 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[RI 044-6991b; FRL-7170-2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the sections 111(d)/129 negative declarations submitted by the Rhode Island Department of Environmental Management (DEM) on January 8, 2002. These negative declarations adequately certify that there are no existing commercial and industrial solid waste incineration units (CISWIs) or small municipal waste combustors (MWCs) located within the boundaries of the state of Rhode Island.

DATES: EPA must receive comments in writing by May 13, 2002.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114-2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business

hours at the following location: Environmental Protection Agency, Air Permits Program Unit, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, Massachusetts 02114-2023. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

FOR FURTHER INFORMATION CONTACT: John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918-1659, or by e-mail at courcier.john@epa.gov. While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

SUPPLEMENTARY INFORMATION: Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit control plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

The Rhode Island DEM submitted the negative declarations to satisfy the requirements of 40 CFR part 60, subpart B. In the Final Rules section of this **Federal Register**, EPA is approving the Rhode Island negative declarations as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA does not receive any significant, material, and adverse comments to this action, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.

Dated: April 3, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 02-8826 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Parts 3430 and 3470****[WO-320-1430-PB-24 1A]****RIN 1004-AD43****Coal Management: Noncompetitive Leases; Coal Management Provisions and Limitations****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed rule; correction, and extension of comment period.

SUMMARY: The Bureau of Land Management (BLM) is extending the comment period on the proposed rule to amend the regulations on noncompetitive coal leases and coal lease acreage limitations. The reason for the extension is to allow the public sufficient opportunity to review regulatory text that was omitted through a printing error in the original publication in the **Federal Register**. BLM is also correcting an error in the proposed amendment of the acreage limitation provision.

DATES: Your comments must be received or postmarked by May 13, 2002.**ADDRESSES:**

Mail: Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, VA 22153, Attn: RIN 1004-AD43. (This is a change from the original postal address that appeared in the January 18, 2002, proposed rule. This change will enable your comments to avoid delivery delays associated with the closing of the Washington, DC, postal facility that was contaminated by anthrax.)

Personal or messenger delivery: Room 401, 1620 L Street, NW, Washington, DC 20036.

Internet e-mail: WOCComment@blm.gov. (Include "Attn: AD43").

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli, (202) 452-0350.

SUPPLEMENTARY INFORMATION: The proposed rule to amend the regulations on noncompetitive coal lease modification and coal lease acreage limitations was published on January 18, 2002 (67 FR 2618). Through a printing error, the version that appeared in the **Federal Register** did not include a proposed amendment of 43 CFR 3472.1-3(a)(1), and, because the printing error also omitted a section heading, did not make it clear in the regulatory text that paragraph (a)(2) that we were amending was in section

3472.1-3 as well. A correction notice appeared in the **Federal Register** on January 29, 2002 (67 FR 4316).

Further, the January 18, 2002, proposed rule incorrectly stated the amendment of section 3472.1-3(a)(2) required by the Act of November 7, 2000 (30 U.S.C. 184(a)). It should have provided that the figure "100,000 acres" be replaced wherever it appears in section 3472.1-3(a)(2) by the figure "150,000 acres," and that the operative date "August 4, 1976," be changed to "November 7, 2000."

Because of the error, and for your convenience, we are reproducing the entire corrected regulatory text of the proposed rule in this correction and extension notice. This will reduce the confusion that may occur due to the succession of fragmentary notices relating to this proposed rule. For the explanatory material in the preamble of the proposed rule, you should refer to the January 18, 2002, proposed rule (67 FR 2618).

Accordingly, the regulatory text of the proposed rule amending 43 CFR 3432.3 is republished, and the regulatory text amending 43 CFR 3472.1-3(a)(2) is corrected to read as follows:

Dated: March 26, 2002.

Rebecca W. Watson,
Assistant Secretary of the Interior.

PART 3430—NONCOMPETITIVE LEASES

1. The authority citation for part 3430 continues to read as follows:

Authority: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351-359; 30 U.S.C. 521-531; 30 U.S.C. 1201 *et seq.*; and 43 U.S.C. 1701 *et seq.*

Subpart 3432—Lease Modifications

2. Amend § 3432.3 by revising paragraph (c) to read as set forth below and adding a new paragraph (d) to read:

§ 3432.3 Terms and conditions.

* * * * *

(c) Before modifying a lease, BLM will prepare an environmental assessment or environmental impact statement covering the proposed lease area in accordance with 40 CFR parts 1500 through 1508.

(d) For coal lease modification applications involving lands in the National Forest System, BLM will submit the lease modification application to the Secretary of Agriculture for consent, for completion or consideration of an environmental assessment, for the attachment of appropriate lease stipulations, and for making any other findings prerequisite to lease issuance.

PART 3470—COAL MANAGEMENT PROVISIONS AND LIMITATIONS

3. The authority citation for part 3470 continues to read as follows:

Authority: 30 U.S.C. 189 and 359 and 43 U.S.C. 1733 and 1740.

Subpart 3472—Lease Qualification Requirements**§ 3472.1-3 [Amended]**

4. Amend § 3472.1-3 by—
- Removing from paragraph (a)(1) the terms "46,080 acres" and "100,000 acres", and adding in their place the terms "75,000 acres" and "150,000 acres", respectively; and
 - Removing from the first sentence of paragraph (a)(2) the date "August 4, 1976," and adding in its place the date "November 7, 2000," and removing from each place it appears in paragraph (a)(2) the term "100,000 acres" and adding in its place the term "150,000 acres."

[FR Doc. 02-8890 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Part 3800****[WO-300-1990-PB-24 1A]****RIN 1004-AD44****Mining Claims Under the General Mining Laws; Surface Management****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed rule; reopening of comment period.

SUMMARY: The Bureau of Land Management (BLM or "we") is reopening the public comment period on our Surface Management (43 CFR 3809) proposed rule, published in the **Federal Register** on October 30, 2001 (66 FR 54689). The purpose of the proposed rule is to obtain further public comment on changes to the Surface Management Regulations that BLM adopted in a final rule also published on October 30, 2001 (66 FR 54834). We are also seeking comment on other changes in the Surface Management Regulations that were not directly addressed in that final rule. The proposed rule would revise BLM's regulations governing mining operations involving metallic and some other minerals on public lands.

DATES: You should submit your comments by May 13, 2002. In the

decision making process on the proposed rule, BLM will not necessarily consider comments postmarked or received by messenger after the above date.

ADDRESSES: Mail: Director (630), Bureau of Land Management, Administrative Record, Eastern States Office, 7450 Boston Boulevard., Springfield, Virginia 22153, Attention: RIN 1004-AD44.

Personal or messenger delivery: Room 401, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT:

Richard Deery 202/452-5198; or Michael Schwartz, 202/452-5198.

Individuals who use a telecommunications device for the deaf (TDD) may contact us through the Federal Information Relay Service at 1-800/877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. How Can I Comment on the Proposed Rule?
- II. Why Is BLM Reopening the Comment Period?

I. How Can I Comment on the Proposed Rule?

A. How do I Comment on the Proposed Rule?

If you wish to comment, you may submit your comments by either of these methods.

- You may mail comments to Director (630), Bureau of Land Management, Administrative Record, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004-AD44.

- You may deliver comments to Room 401, 1620 L Street, NW., Washington, DC 20036.

- Electronic access and filing address: You may also comment via the Internet to: WOCComment@blm.gov. Please also include: "Attention: AD-44" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 202/452-5030. You may view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov.

Written comments on the proposed rule are most helpful if you:

- (A) Are specific;
- (B) Confine comments to issues pertinent to the proposed rule;
- (C) Explain the reason for any recommended change; and
- (D) Reference the specific section or paragraph of the proposal you are addressing.

We welcome suggested regulatory language.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I Review Comments Submitted by Others?

You may review comments, including names and street addresses of respondents, at the address listed under **ADDRESSES**. Personal or messenger delivery" during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

II. Why Is BLM Reopening the Comment Period?

On February 1, 2002, the Department of the Interior reopened the comment period on this rule for 14 days (see 66 FR 4940). We did this because BLM was unable to receive internet mail from the public between December 4, 2001, and February 19, 2002 and because mail delivery to the Department was disrupted during the original comment period for this proposed rule. Although we recently reopened the comment period for 14 days (which ended on February 15, 2002) this may not have allowed the public sufficient additional time to comment. Given continued interest in many aspects of this rulemaking we decided it is in the public interest to open the comment period for an additional 30 days. We continue to be interested in comments on the following topics:

- Whether we should amend the regulations regarding BLM's relationship to states and the delegations these rules provide.
- The current availability of financial guarantees to assure the performance of reclamation and the availability of additional means to provide sound and reliable financial guarantees.
- Whether BLM should always perform a validity examination before approving a plan of operations on withdrawn lands.

- Whether we should add a specific reference to cave resources in the performance standards.

- Whether the 3809 regulations contain other provisions which are either overly burdensome or fail to provide adequate environmental protection.

We may address these issues and others in a future proposed rule.

We also continue to seek comments on other aspects of the surface management regulations.

Dated: March 27, 2002.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 02-8873 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-737; MB Docket No. 02-72, RM-10400; MB Docket No. 02-73, RM-10401; MB Docket No. 02-74]

Radio Broadcasting Services; Nantucket, MA; Cameron, AZ; Ferrysburg, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three allotments in Nantucket, MA, Cameron, AZ, and Ferrysburg, MI. The Commission requests comment on a petition filed by John Garabedian proposing the allotment of Channel 254B1 at Nantucket, Massachusetts, as potentially the community's fourth local FM broadcast service commercial FM service. Channel 254B1 can be allotted to Nantucket in compliance with the Commission's minimum distance separation requirements with no site restriction at center city reference coordinates of 41-16-54 North Latitude and 70-06-06 West Longitude. See **SUPPLEMENTARY INFORMATION** infra.

DATES: Comments must be filed on or before May 20, 2002, and reply comments on or before June 4, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: John Garabedian, 24 Fairview Drive, Southborough, Massachusetts 01772; Jeffrey A. Smith, Executive Vice President, McCody Broadcasting Group, Inc., 885 Third Avenue, 34th Floor, New York, New York 10022; and Robert J. Buenzle

(counsel for Northern Paul Bunyan Radio Company), 12110 Sunset Hills Road—Suite 450, Reston, Virginia 22090.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418-7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos 02-72, 02-73, 02-74; adopted March 25, 2002 and released March 29, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893.

The Commission further requests comment on a petition filed by McCody Broadcasting Group, Inc. proposing the allotment of Channel 246A at Cameron, Arizona, as the community's first aural broadcast service. Channel 246A can be allotted to Cameron in compliance with the Commission's minimum distance separation requirements with no site restriction at center city reference coordinates of 35-52-30 North Latitude and 111-24-48 West Longitude.

The Commission further requests comment on a petition filed by Northern Paul Bunyan Radio Company proposing the allotment of Channel 226A at Ferrysburg, Michigan, as the community's first local broadcast service. Channel 226A can be allotted to Ferrysburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 km (1.7 miles) northeast of Ferrysburg. The coordinates for Channel 226A at Ferrysburg are 43-06-04 North Latitude and 86-11-29 West Longitude. The proposed allotment will require concurrence by Canada because it is located within 320 kilometers (199 miles) of the Canadian border.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Massachusetts, is amended by adding Channel 254B1 at Nantucket.

3. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Cameron, Channel 246A.

4. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Ferrysburg, Channel 226A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.
[FR Doc. 02-8937 Filed 4-11-02; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln County Resource Advisory Committee, Libby, MT; Meeting

A meeting of the Lincoln County Resource Advisory Committee will be held as follows:

TIME AND DATE: May 2, 2002, 6:30 p.m.

PLACE: Kootenai National Forest Supervisor's Office, 1101 U.S. Hwy 2 West, Libby, Montana.

STATUS: The meeting is open to the public.

MATTERS TO BE CONSIDERED: Agenda topics will include purpose and scope of the advisory committee, review of the charter, set operational and procedural guidelines, and a public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393).

CONTACT PERSON FOR MORE INFORMATION: Barbara Edgmon, Kootenai National Forest Supervisor's Office, Phone: (406) 293-6211.

Dated: April 3, 2002.

Bob Castaneda,

Forest Supervisor.

[FR Doc. 02-8637 Filed 4-11-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee, Hamilton, MT; Meeting

A meeting of the Ravalli County Resource Advisory Committee will be held as follows:

TIME AND DATE: April 30, 2002, 6:30 p.m.

PLACE: Ravalli County Administration Building, 215 S. 4th Street, Hamilton, Montana.

STATUS: The meeting is open to the public

MATTERS TO BE CONSIDERED: Agenda topics will include Project evaluation and selection criteria, a presentation on the Bitterroot National Forest Noxious Weed Treatment Project DEIS, and a public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393)

CONTACT PERSON FOR MORE INFORMATION: Jeanne Higgins, Stevensville District Ranger and Designated Federal officer, Phone: (406) 777-5461.

Dated: April 4, 2002.

Lesley W. Thompson,

Acting Forest Supervisor.

[FR Doc. 02-8772 Filed 4-11-02; 8:45 am]

BILLING CODE 3410-11-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 13, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on

the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in the notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-ODay Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: Load Carriage System, 8415-00-NSH-0622.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Magazine, M-4, Double, CQB, 8415-00-NSH-0600.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Flashbang, Single, 8415-00-NSH-0601.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Magazine, .45 ACP Single, CQB, 8415-00-NSH-0602.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Carrier, Advanced Squad Demolition Kit, 8415-00-NSH-0603.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Magazine, Barrett .50, Single, 8415-00-NSH-0604.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Magazine, SR-25/M-14, Double, 8415-00-NSH-0605.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Panel, 12 Gauge Shotgun, 16 shell, 8415-00-NSH-0606.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Radio, Sabre, 8415-00-NSH-0607.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Radio, AN/PRC-126, 8415-00-NSH-0608.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Radio, Multi-band Internal Team Radio, 8415-00-NSH-0609.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Sea MKII, 8415-00-NSH-0611.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Suspenders, Sub-belt, 8415-00-NSH-0612.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Shotgun Launched Riot Control Canister, 8415-00-NSH-0613.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Pocket, Administrative, 8415-00-NSH-0614.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Panel, Drop Leg, 8415-00-NSH-0615.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Sling, M-240, Padded, Quick Release Weapon/General Purpose, 8415-00-NSH-0616.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Insert, Medical, Trauma, Ranger, 8415-00-NSH-0617.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Attachment, Tripod Sling, M-240, 8415-00-NSH-0618.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Carrier, 3 Mag, M-4A1, Assault, 8415-00-NSH-0619.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Modular Assault Pack (MAP), 8415-00-NSH-0620.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Product/NSN: Load Carriage System Pockets/ Load Carriage System Bag, 8415-00-NSH-0621.

NPA: Chautauqua County Chapter, NYSARC, Jamestown, New York.

Contract Activity: U.S. Army Robert Morris Acquisition Center.

Services

Service Type/Location: Administrative Services, Service School Command, Great Lakes, Illinois.

NPA: GWS, Inc., Waukegan, Illinois.

Contract Activity: FISC Norfolk, Detachment Philadelphia.

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Whitehall, Ohio.

NPA: Licking-Knox Goodwill Industries, Inc., Newark, Ohio.

Contract Activity: U.S. Army Reserve Center, Fort Snelling, MN.

Service Type/Location: Mess Attendant, 192d FW VA Air National Guard, Sandston, Virginia.

NPA: The Arc of the Virginia Peninsula, Inc., Hampton, Virginia.

Contract Activity: 192d FW VA Air National Guard, Sandston, VA.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02-8942 Filed 4-11-02; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a product and services previously furnished by such agencies.

EFFECTIVE DATE: May 13, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603-7740

SUPPLEMENTARY INFORMATION:

Additions

On February 8, February 15 and February 22, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 5965, 7130 and 8226) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-ODay Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Base Supply Center & HAZMAT, Fleet and Industrial Supply Center, Jacksonville. (Detachment Naval Station Guantanamo Bay Cuba).

NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina.

Contract Activity: Fleet & Industrial Supply Center, Jacksonville.

Service Type/Location: CD-ROM Replication—Program 2239S, Government Printing Office, Philadelphia Regional Printing Procurement Office, Southampton, Pennsylvania.

NPA: Association for the Blind & Visually Impaired & Goodwill Industries of Greater Rochester, Rochester, New York.

Contract Activity: Government Printing Office.

Service Type/Location: Food Service, Pueblo Chemical Depot, Pueblo, Colorado.

NPA: Pueblo Diversified Industries, Inc., Pueblo, Colorado.

Contract Activity: U.S. Army, Rocky Mountain Arsenal, Commerce City, Colorado.

Service Type/Location: Janitorial/Custodial, Peace Bridge Complex, Buffalo, New York.

NPA: Suburban Adult Services, Inc., Sardinia, New York.

Contract Activity: GSA, Public Buildings Service.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the product and services.

3. The action may result in authorizing small entities to furnish the product and services to Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-ODay Act (41 U.S.C. 46–48c) in connection with the product and services deleted from the Procurement List.

After consideration of the relevant matter presented, the committee has determined that the product and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46048 and 41 CFR 51–2.4.

Accordingly, the following product and services are hereby deleted from the Procurement List:

Product

Product/NSN: Paper, Looseleaf, Ruled, 7530–00–286–4332.

NPA: Alabama Industries for the Blind, Talladega, Alabama.

Contract Activity: Office Supplies & Paper Products Commodity Center.

Services

Service Type/Location: Grounds Maintenance, Brooks Air Force Base (Koritz Memorial Garden), Brooks AFB, Texas.

NPA: Goodwill Industries of San Antonio, San Antonio, Texas.

Contract Activity: Department of the Air Force.

Service Type/Location: Janitorial/Custodial, Brooks Air Force Base (Base Wide), Brooks AFB, Texas.

NPA: Goodwill Industries of San Antonio, San Antonio, Texas.

Contract Activity: Department of the Air Force.

Service Type/Location: Janitorial/Custodial, Federal Complex, Kansas City, Missouri.

NPA: Independence & Blue Springs Industries, Inc., Independence, Missouri.

Contract Activity: General Services Administration.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–8943 Filed 4–11–02; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker: Notice of Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The period of review is August 1, 2000, through July 31, 2001.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT:

Hermes Pinilla or Mark Ross, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3477 or (202) 482–4794, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act.

Extension of Time Limit for Preliminary Results

The Department of Commerce (the Department) received a request to conduct an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. On October 1, 2001, the Department published the notice of initiation for this administrative review (66 FR 49924). The period of review is August 1, 2000, through July 31, 2001. The deadline for completing the preliminary results of the review is May 3, 2002.

In this review, complex issues exist regarding product matching (e.g., comparability between the U.S. cement product specifications and the new Mexican cement product specifications). Due to the complexity of these issues and the constraints on the Department's resources available to analyze it appropriately, given the number of proceedings currently before the Department, the Department determines that it is not practicable to complete the preliminary results of this review within the statutory time limit. Therefore, the Department is extending the time limit for the preliminary results in this review to August 31, 2002. This extension of the time limit is in accordance with section 751(a)(3)(A) of the Act. The Department intends to issue the final results of review 120 days after the publication of the preliminary results.

Dated: April 5, 2002.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–8960 Filed 4–11–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-437-804, A-471-806]

Notice of Postponement of Preliminary Determinations of Antidumping Duty Investigations: Sulfanilic Acid from Hungary and Portugal

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder (Hungary) at (202) 482-0189 or S. Anthony Grasso (Portugal) at (202) 482-3853, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On October 26, 2001, the Department published the initiation of the antidumping duty investigations of imports of sulfanilic acid from Hungary and Portugal. See Notice of Initiation of Antidumping Duty Investigations: Sulfanilic Acid from Hungary and Portugal, 66 FR 54214, 54218 (October 26, 2001). The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (i.e., March 7, 2002). On February 15, 2002, pursuant to section 733(c)(1) of the Act, the Department postponed the preliminary determinations of these antidumping duty investigations by 30 days, or until no later than April 8, 2002. See Notice of Postponement of Preliminary Determinations of Antidumping Duty Investigations: Sulfanilic Acid from Hungary and Portugal, 67 FR 8525 (February 25, 2002).

For the following reasons, we determine that these cases are extraordinarily complicated by reason of the novelty of the issues presented in

these investigations and the need for additional time to make the preliminary determinations. First, these cases involve certain complex issues, including sales-below-cost allegations in both investigations. Second, the Department needs more time than that allotted under the current schedule to clarify certain information on the record of these investigations in order to make accurate preliminary determinations. Third, due to the late entry of appearance by the petitioner's counsel in the antidumping duty investigation on sulfanilic acid from Hungary, additional time is needed to ensure that the petitioner can participate fully, in particular by obtaining access to the Hungarian respondent's business proprietary information under an administrative protective order. Finally, we are extending the preliminary determinations for both Hungary and Portugal in order to keep both investigations on identical schedules.

For the reasons identified by the Department, we are postponing the preliminary determinations by an additional 20 days, in accordance with section 733(c)(1) of the Act. We will make our preliminary determinations no later than April 26, 2002.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: April 4, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-8959 Filed 4-11-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration****Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)**

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of meeting.

SUMMARY: The APAC will have a closed meeting on April 23, 2002 at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: April 23, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202-482-1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public

Law 105-261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Acting Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on March 20, 2002, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the April 23rd meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: March 25, 2002.

Henry Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 02-8850 Filed 4-11-02; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE**International Trade Administration****Secretarial Business Development Mission to Mexico, June 17–20, 2002**

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to announce secretary Evans' business development mission to Mexico during June 17–20, 2002.

SUMMARY: Secretary of Commerce Donald L. Evans will lead a senior-level business development mission to Mexico City and Monterrey, Mexico, on June 17–20, 2002. The focus of the mission will be to help U.S. companies explore business opportunities in Mexico. The delegation will include approximately 15 U.S.-based senior executives of small, medium and large U.S. firms representing, but not limited to, technology, equipment, and services in the following key growth sectors: energy and energy efficiency, environmental and water resources, information technology, telecommunications, transportation, medical and manufacturing. These key sectors reflect Mexico's infrastructure needs, the growth of a consumer society, and the boom in manufacturing created by NAFTA and proximity to the U.S.

DATES: Applications should be submitted to the Office of Business Liaison by May 1, 2002. Applications received after that date will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT: Office of Business Liaison; Room 5062; Department of Commerce; Washington, DC 20230; Tel: (202) 482–1360; Fax: (202) 482–4054.

SUPPLEMENTARY INFORMATION:**Secretarial Business Development Mission to Mexico**

June 17–20, 2002.

Mission Statement*I. Description of the Mission*

Secretary of Commerce Donald L. Evans will lead a senior-level business development mission to Mexico City and Monterrey, Mexico.

The focus of the mission will be to help U.S. companies explore business opportunities in Mexico. The delegation will include approximately 15 U.S.-based senior executives of small, medium and large U.S. firms representing, but not limited to, technology, equipment, and services in the following key growth sectors: energy and energy efficiency, environmental

and water resources, information technology, telecommunications, transportation, medical, and manufacturing. These key sectors reflect Mexico's infrastructure needs, the growth of a consumer society, and the boom in manufacturing created by NAFTA and proximity to the U.S. market.

II. Commercial Setting for the Mission

Mexico is the second largest export market for the United States after Canada. U.S. exports to Mexico totaled \$102 billion in 2001, with substantial sales in virtually every product sector in which the United States is globally competitive. U.S. exports to Mexico have registered annual growth of more than ten percent in five of the last six years, peaking in 2000 with a 28 percent increase. Although the Mexican economy cooled in tandem with the United States economy during 2001, prospects are favorable for a renewal in growth in the latter half of 2002.

Mexico recently obtained "investment grade" status for its public debt from both Moody's and Standard and Poor's, a reflection of the country's sound economic fundamentals and stable macroeconomic policy.

III. Goals for the Mission

The mission aims to further both U.S. commercial policy objectives and advance specific business interests. It is intended to:

- Assist individual U.S. companies to pursue export and other new business opportunities in Mexico, by introducing them to key host government decision-making officials and to potential business partners;
 - Assist new-to-market firms to evaluate the market potential for their products and gain an understanding of how to operate successfully in Mexico's commercial environment; and
 - Enhance the dialogue between government and industry on issues affecting the development of U.S.-Mexican commercial relations.
- Emphasize the benefits of international trade for improving the standard of living and quality of life for all mankind.
- Highlight examples of the corporate citizenship and active involvement by U.S. businesses in the communities where they operate in the United States and abroad.

IV. Scenario for the Mission

The Business Development Mission will provide participants with exposure to high-level business and government contacts, and an understanding of market trends and the commercial

environment. American Embassy officials will provide a detailed briefing on the economic, commercial, and political climate, and participants will receive individual counseling on their specific interests from U.S. Commercial Service industry specialists. Meetings will be arranged as appropriate with senior government officials and potential business partners. Representational events will also be organized to provide mission participants with opportunities to meet Mexico's business and government representatives, as well as U.S. business people living and working in Mexico.

The tentative trip itinerary will be as follows:

June 17th—Arrive Mexico City

June 18th—One-on-One Business

Meetings in Mexico City

June 19th—Travel to Monterrey, One-on-One Business Meetings in Monterrey

June 20th—One-on-One Business

Meetings in Monterrey

June 21st—Optional spin-off trips to Guadalajara or Tijuana for further business meetings, at additional expense.

V. Criteria for Participant Selection

The recruitment and selection of private sector participants for this mission will be conducted according to the "Statement of Policy Governing Department of Commerce-Overseas Trade Missions" established in March 1997. Promotion and recruitment will include, but not be limited to, posting on appropriate Department of Commerce web pages, notification in the **Federal Register**, and through distribution of the trade mission statement and further information to national and other trade associations and trade publications. Approximately 15 companies will be selected for the mission. Companies will be selected according to the criteria set out below.

Eligibility

Participating companies must be incorporated in the United States. A company is eligible to participate only if the products and/or services that it will promote (a) are manufactured or produced in the United States; or (b) if manufactured or produced outside the United States, are marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

Selection Criteria

Companies will be selected for participation in the mission on the basis of:

- Consistency of the company's goals with the scope and desired outcome of the mission as described herein;

- Relevance of a company's business and product line to market opportunities in Mexico;

- Seniority of the representative of the designated company;

- Past, present, or prospective international business activity;

- Diversity of company size, type, location, demographics, and traditional under-representation in business;

- Degree of company's commitment to corporate citizenship.

An applicant's partisan political activities (including political contributions) are irrelevant to the selection process.

VI. Time Frame for Applications

Applications for the trade mission to Mexico were made available on March 22, 2002. The fee to participate in the mission will be between \$4,000–\$6,000. Expenses for travel, lodging, and some meals will be the responsibility of each participant. For additional information on the trade mission or to obtain an application, contact the Department of Commerce Office of Business Liaison at 202–482–1360. Applications should be submitted to the Office of Business Liaison by May 1, 2002, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit.

Contact: Office of Business Liaison, Room 5062, Department of Commerce, Washington, DC 20230, Tel: (202) 482–1360, Fax: (202) 482–4054.

Mission Web Site: <http://www.doc.gov/mexicotrademission>.

Dated: April 8, 2002.

Laron Jensen,

Acting Deputy Director General.

[FR Doc. 02–8862 Filed 4–11–02; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040502A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1362, 1363,

1364, 1365, 1366, 1367, 1369, 1370, 1371, 1372, 1376) and receipt of applications to modify research permits (1135, 1141, 1177, 1315, 1317, 1322).

SUMMARY: NMFS has received 11 new scientific research permit applications and six applications to modify existing scientific research permits related to Pacific salmon and steelhead. The proposed research is intended to increase knowledge of the listed species and to help guide management and conservation efforts.

DATES: Written comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight savings time on May 13, 2002.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–2737 (503–230–5400). Comments may also be sent via fax to 503–230–5435. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Steve Stone, Portland, OR (ph: 503–231–2317, Fax: 503–230–5435, e-mail: steve.stone@noaa.gov)

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, Puget Sound (PS); threatened Lower Columbia River (LCR), threatened Snake River (SnR) spring/summer and fall; endangered Upper Columbia River (UCR); threatened Upper Willamette River (UWR).

Coho salmon (*O. kisutch*): threatened Southern OR/Northern CA Coasts (SONCC).

Sockeye salmon (*O. nerka*): endangered Snake River (SnR)

Steelhead (*O. mykiss*): endangered UCR, threatened LCR, threatened Middle Columbia River (MCR), and threatened SnR.

Authority

Scientific research and/or enhancement permits are issued under Section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*). Issuance of permits and permit modifications, as required by the ESA, is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species

that are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR Parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

New Applications Received

Permit 1362

The Idaho Cooperative Fish and Wildlife Research Unit (ICFWRU) requests a 3-year permit (1362) for take of adult, threatened, artificially propagated, SnR spring/summer chinook salmon associated with a scientific research project proposed to occur at Bonneville Dam on the lower Columbia River, Lower Granite Dam on the lower Snake River, and in the tributaries of the upper Salmon River in Idaho. The objective of the research is to evaluate the energy costs, survival, and reproductive success of adult salmon associated with their passage around the hydropower dams on the mainstem Columbia and Snake Rivers. Information collected from the research will be used directly by managers to operate fishways and manage spill and flow regimes to maximize passage and survival of adult salmonids at the dams. As many as 200 adult, threatened, artificially propagated, SnR spring/summer chinook salmon that originated from the upper Salmon River region are proposed to be lethally taken in 2002 to obtain energy use data. In addition, ICFWRU requests take to collect tissues from ESA-listed adult salmon carcasses in the upper Salmon River region.

Permit 1363

The Fish Passage Center (FPC) requests a 5-year permit (1363) for annual takes of juvenile, threatened, naturally produced, SnR spring/summer chinook salmon and juvenile, threatened, SnR steelhead associated with a project designed to measure the smolt-to-adult survival rates of hatchery and wild spring/summer chinook

salmon and hatchery steelhead from representative sites in the Snake, mid-Columbia River, and lower Columbia River basins. The data will be useful in the development of future long-term mitigation measures at the hydroelectric dams on the Snake and Columbia Rivers, such as flow augmentation, spill, and juvenile fish transportation. The wild runs of SnR spring and summer chinook salmon and steelhead were relatively strong in 2000 and 2001. An opportunity exists to tag enough wild juvenile chinook salmon and steelhead for the 2002 to 2004 outmigrations to provide a comparison between smolt-to-adult survival rates of transported and inriver wild migrants, as well as between Snake River and downriver wild stocks with similar life history characteristics. ESA-listed juvenile salmon and steelhead are proposed to be captured at traps located on the Snake, Salmon, and Clearwater Rivers in Idaho and the Grande Ronde River in Oregon. Captured ESA-listed juvenile salmon and steelhead are proposed to be tagged with passive integrated transponders and released. FPC estimates that as many as 167 ESA-listed juvenile salmon and as many as 100 ESA-listed juvenile steelhead indirect mortalities may occur each year associated with the research.

Permit 1364

The Idaho Fishery Resource Office of the U.S. Fish and Wildlife Service (USFWS) requests a 1-year permit (1364) for takes of juvenile, threatened, SnR fall chinook salmon and juvenile, threatened, SnR steelhead associated with a continuing project designed to evaluate the Dworshak National Fish Hatchery steelhead program in Idaho and its impacts on ESA-listed salmon and steelhead in the vicinity of the hatchery. As a result of non-listed steelhead releases from the hatchery, the potential exists for competition, increased stress, behavior modification, predation, and genetic risks between hatchery steelhead and ESA-listed wild salmon and steelhead stocks. The goal of the project is to better understand the extent to which these potential risks affect ESA-listed salmon and steelhead stocks and to be able to recommend appropriate actions to limit those risks. ESA-listed juvenile salmon and steelhead are proposed to be observed/harassed during snorkel surveys or captured using boat or backpack electrofishing, sampled for biological information and tissue samples, and released. USFWS estimates that as many as five ESA-listed juvenile salmon and as many as 16 ESA-listed juvenile steelhead indirect mortalities may occur associated with the research.

Permit 1365

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) requests a 2-year permit (1365) for annual takes of threatened, adult MCR steelhead associated with research activities to be conducted in the Umatilla and Walla Walla River basins. The purpose of the study is to determine the temporal and spatial distribution of hatchery and natural steelhead adult spawners in the headwater reaches. The study will provide additional life history information about MCR steelhead required for further development of a steelhead restoration plan in the Walla Walla River subbasin. The CTUIR proposes to capture (using hook and line, beach seines and Merwin traps), radio tag, and release 120 adult MCR steelhead. The CTUIR also requests indirect mortality of three adult MCR steelhead associated with the study.

Permit 1366

The Oregon Cooperative Fish and Wildlife Research Unit (OCFWRU) requests a 5-year permit (1366) for annual takes of the juvenile life forms of all of the ESA-listed anadromous fish ESUs identified in this notice associated with a research project proposed to occur at Lower Granite Dam on the lower Snake River and McNary and Bonneville Dams on the lower Columbia River. The purpose of the research is to compare biological and physiological indices of wild and hatchery juvenile fish exposed to stress from bypass, collection, and transportation activities at the dams. The research will improve the survival of the ESA-listed species at the dams by providing information that will be used to determine the effects of the manmade structures and associated management activities on the outmigrating salmonids. ESA-listed juvenile fish are proposed to be captured using lift nets or dipnets at the dams (or acquired from Smolt Monitoring Program or NMFS personnel at Bonneville Dam), sampled for biological information or tagged with radiotransmitters, and released. Up to 3 percent of the ESA-listed juvenile fish handled each year may be indirectly killed. In addition, OCFWRU requests intentional lethal takes of ESA-listed juvenile fish associated with the research.

Permit 1367

The Northwest Fishery Science Center (NWFSC) requests a 3-year permit (1367) for annual takes of threatened, juvenile MCR steelhead associated with research activities in the Yakima River,

WA. The purpose of the study is to estimate the incidence of precocious maturation and characterize the related maturational physiology in wild Yakima River salmonids in comparison to hatchery reared cohorts. The study will provide information on listed species' life histories. The NWFSC proposes to capture (using backpack electrofishing equipment), handle, and release 15 juvenile MCR steelhead.

Permit 1369

The King County Department of Natural Resources (KCDNR) requests a 5-year permit (1369) for annual takes of juvenile, naturally produced PS chinook salmon associated with scientific research to be conducted in several Puget Sound subbasins. The purpose of the study is to investigate scientific issues pertaining to how salmonid habitat in King County can be protected while concurrently providing local farmers with the technical and regulatory means to drain their farmlands to continue agricultural production. This program will develop a comprehensive information base about the habitat quality; the extent of the current and potential salmonid use of habitat where most commercial agriculture occurs; and techniques to avoid, minimize, or mitigate agriculture-related impacts on listed salmonids and their habitat. KCDNR proposes to capture (using fyke nets, minnow traps, and backpack electrofishing equipment), anesthetize, handle, and release eight juvenile and two adult PS chinook salmon. KCDNR also requests indirect mortality of two juvenile PS chinook salmon associated with the study.

Permit 1370

The Utah State University (USU) requests a 1-year permit (1370) for annual takes of threatened, adult and juvenile SnR spring/summer chinook salmon associated with research designed to estimate populations of listed fish at various life stages. The study will provide information that will allow researchers to improve SnR chinook habitat. The USU proposes to observe/harass 1,200 juvenile and 30 adult listed chinook and 600 juveniles and 25 adult listed steelhead. In addition, the USU proposes to capture (using boat electrofishing and blocknets), handle and release 800 juvenile and 10 adult SnR spring/summer chinook salmon and 690 juvenile and 25 adult SnR steelhead. USU also requests indirect mortality of 16 juvenile SnR chinook salmon and 12 juvenile SnR steelhead associated with the research.

Permit 1371

The Battelle Marine Sciences Laboratory (BMSL) requests a 1-year permit (1371) for annual takes of juvenile, naturally produced PS chinook salmon associated with scientific research to be conducted at the Mukilteo, WA, ferry terminal in Possession Sound. The purpose of the study is to assess potential predation on salmon fry near ferry terminals, and if so, determine how future design and modifications to terminal structures and operation can reduce these impacts. Specific goals of this research are to (1) determine whether potential salmon predators are more abundant near terminals or aggregate near terminals during juvenile salmon outmigration, (2) establish spatial and temporal patterns of potential predator abundance near terminals, (3) assess whether potential salmon predators consume more juvenile salmon near terminals, and (4) create standardized protocols for evaluating predator effects at other terminals. BMSL proposes to capture (using beach and purse seines, fish traps, trammel nets, and hook-and-line), handle, anaesthetize, and release 100 naturally produced, juvenile PS chinook salmon and subject 10 juvenile PS chinook salmon to stomach content analysis. BMSL also requests indirect mortality of 30 juvenile PS chinook salmon associated with the study.

Permit 1372

The Puget Sound Energy (PSE) requests a 3-year permit (1372) for annual takes of juvenile, naturally-produced and artificially-propagated PS chinook salmon associated with several studies to be conducted in the Baker and Skagit Rivers. The purposes of the studies are to assess habitat conditions and fish use in these watersheds. The objective of the proposed research is to describe specific aspects of fish habitat conditions and use that are potentially affected by the operation of the Baker River Dams. The results of the study will provide information needed to complete the National Environmental Policy Act environmental analysis in support of the Federal Power Commission relicensing of the upper and lower Baker River Dams. In addition, the information will be used to develop strategies to protect and enhance fish production and habitat and assist in the recovery of listed salmon. The PSE proposes to harass (snorkel surveys) adult PS chinook salmon, capture (using fyke nets, beach seines, minnow traps, and backpack electrofishing equipment), anesthetize, handle, and release 1,457 juvenile PS

chinook salmon. The PSE also requests indirect mortality of 59 juvenile PS chinook salmon associated with the study.

Permit 1376

The Washington Cooperative Fish and Wildlife Research Unit, University of Washington (UW) requests a 1-year permit for annual takes of juvenile, naturally produced PS chinook salmon associated with research to be conducted in Lakes Washington and Sammamish. The purpose of the research is to understand food web interactions, identify sources of mortality, and determine the energetic requirements to sustain fish and zooplankton communities in each lake. The study will help researchers identify and quantify factors limiting survival and growth of juvenile salmon and other species. The UW proposes to capture, anesthetize, handle, measure, weigh, and release 92 juvenile and four adult PS chinook salmon and subject a subset to stomach analysis. The UW also requests indirect mortality of 14 juvenile PS chinook salmon associated with the study.

Modification Requests Received*Permit 1135–Modification 1*

The U.S. Geological Survey (USGS) requests a modification to permit 1135 for annual takes of LCR chinook salmon and additional annual takes of adult and juvenile LCR steelhead associated with research designed to provide information on the survival rates, growth rates, habitat use, population densities, health, and life history diversity of steelhead in the Wind River Basin of southern Washington. The research will provide information that will assist state, tribal, and Federal managers in their effort to restore LCR steelhead populations and habitat. The USGS proposes to observe/harass adult and juvenile steelhead and chinook during snorkel surveys and during habitat surveys at selected sites in the basin. The USGS also proposes to capture (using backpack electrofishing), handle, and release 5,000 juvenile LCR chinook salmon and an additional 4,500 juvenile LCR steelhead, mark (using passive integrated transponder tags) and take tissues/scale samples from 1,500 juvenile LCR steelhead, and sacrifice 50 juvenile LCR chinook salmon and 50 juvenile LCR steelhead. The USGS requests indirect mortality of 200 juvenile chinook salmon and 250 juvenile LCR steelhead associated with the study.

Permit 1141–Modification 3

The Public Utility District No.2 of Grant County (Grant PUD) requests a modification to permit 1141 that would add a new study to annually take threatened, juvenile UCR spring chinook salmon associated with research conducted at Priest Rapids and Wanapum Dams. The purpose of the study is to (1) estimate dam and pool passage survival of ESA-listed fish at Wanapum and Priest Rapids Dams respectively; (2) assess travel times, approach routes and other behavioral aspects of yearling salmonids in the forebay of Wanapum and Priest Rapids Dams; and (3) assess smolt survival for spill gates at Wanapum Dam. Information from the study will help increase yearling survival through Wanapum and Priest Rapids Dams. The Grant PUD proposes to capture, mark (balloon tag and radio tag), and release 2,380 juvenile UCR spring chinook salmon. Listed spring chinook salmon will be collected from gateways at Wanapum and Priest Rapids Dams by a crane operated dipnet. In addition, Grant PUD proposes to lethally take up to 20 juvenile UCR spring chinook salmon. The Grant PUD also requests indirect mortality of 48 juvenile UCR spring chinook salmon associated with the research.

Permit 1177–Modification 1

The Portland District Corps of Engineers (COE) requests a modification to Permit 1177 for additional annual takes of adult and juvenile, threatened SONCC coho salmon associated with research and an adult trap-and-haul program at Elk Creek Dam on the Rogue River in Oregon. The trap-and-haul program is designed to move returning SONCC coho above an impassable barrier so that the fish may use upstream habitat for natural spawning, thus increasing salmon production. The research will determine the annual spawning success of fish upstream of the dam. The COE also proposes to capture (using a weir below the dam), anesthetize, transport above the dam, tag with an opercle punch, allow to recover, and release 1,600 adult SONCC coho salmon. The adult salmon will be recaptured to estimate the number of fish that pass downstream over the weir. In addition, 45 adult fish carcasses will be examined for evidence of spawning and immediately returned to the stream. The COE research proposal also anticipates observing/harassing 300 juvenile listed coho salmon during snorkel surveys.

Permit 1315—Modification 1

The Seattle District COE requests a modification to permit 1315, which currently authorizes annual takes of PS chinook salmon for four studies. The modification will include the following studies:

Study 1. The take in study 1 is associated with research designed to determine the effectiveness of habitat restoration projects in tributaries of Lake Washington. The information will help improve restoration projects and increase knowledge of chinook salmon habitat use in the Lake Washington watershed.

Study 2. The take in study 2 is associated with an investigation of fish passage conditions at the large lock chamber of the Hiram M. Chittenden Locks and Lake Washington Ship Canal to identify effects on salmonids in the Lake Washington Basin. The study will help researchers (1) identify limiting factors contributing to smolt survival, (2) develop smolt survival estimates, and (3) assess restoration measures to improve smolt survival.

Study 3. The take in study 3 is associated with a study to document fish presence in various habitats in the Sammamish River. The research will provide information about juvenile salmonid habitat and restoration needs in the river.

Study 4. The take in study 4 is associated with research to determine juvenile salmon use of shoreline areas in Lake Washington and to guide restoration projects to enhance shoreline habitats.

Study 5. The COE requests additional annual takes of juvenile, naturally produced PS chinook salmon with an expansion of work locations associated with a new study (study 5) to be conducted on the Middle Green River. The objectives of this study are to measure the emergence, growth, instream migration, relative abundance, and species distribution of juvenile salmonids in the Green River. In addition, the COE will observe juvenile salmon responses during the Howard Hanson Dam (HHD) refill and release. The information will assist with (1) adaptive management aspects of the HHD Additional Water Storage Project to minimize impacts on the survival of emigrating juvenile salmon and steelhead, (2) determining the limiting factors affecting chinook salmon, and (3) provide information for the City of Tacoma's Habitat Conservation Plan. The COE proposes to capture (using fyke nets, floating screw traps, dip nets, and backpack electrofishing equipment), anesthetize, handle, fin clip, and release

37,300 juvenile PS chinook salmon. The COE also requests indirect mortality of 102 PS chinook salmon associated with the study.

Study 6. The COE requests additional annual takes of juvenile naturally-produced PS chinook salmon with an expansion of work locations associated with a new study (study 6) to be conducted at the outlet of the Lake Washington Ship Canal. The purpose of the project is to restore downstream fish passage for salmon and steelhead smolts from the Lake Washington basin to Puget Sound. The restoration project will (1) reduce smolt entrainment into the large lock-filling culverts; (2) reduce smolt injury by entrainment reduction, slowing conduit velocities, and de-barnacled the conduits; and (3) add four, low-flow surface collectors (smolt slides) in two spillways. The COE proposes to capture (using purse seines), anesthetize, pit tag, handle, and release 80 juvenile PS chinook salmon. The COE also requests indirect mortality of two PS chinook salmon associated with the study.

Permit 1317—Modification 1

The USGS requests a modification to Permit 1317 that would increase annual takes of juvenile MCR steelhead and add pit tagging and radio tagging to sampling methods for research activities on the Toppenish National Wildlife Refuge (TNWR), Toppenish Creek, Washington. The purpose of the modification is to determine whether juvenile MCR steelhead enter the TNWR's wetland management units during the spring flooding of Toppenish Creek and are trapped there, thus becoming vulnerable to avian predators, high summer water temperatures, and stranding. The study will show whether MCR steelhead are straying into the wetland management units and managing to escape back to Toppenish Creek to continue their downstream migration. The study will also be used to help guide TNWR operations so that the fish trapped in the management units are less likely to be harmed in the future. The USGS proposes to capture, weigh, measure, mark (pit tag and radio tag), and release 1,500 juvenile MCR steelhead. Baited minnow traps will be the primary capture method, but fyke nets or electrofishing may be used if the traps are not successful. The USGS also requests indirect mortality of 75 juvenile MCR steelhead associated with the study.

Permit 1322—Modification 1

The NWFSC requests a modification to permit 1322 for additional annual takes of ESA-listed salmonids in the

Lower Columbia River estuary. The purpose of the study is to determine (1) the presence and abundance of fall and spring chinook salmon, coho salmon, and chum salmon in the estuary and Lower Columbia River; (2) determine the relationship between juvenile salmon and Lower Columbia River estuarine habitat; and (3) obtain information about flow change, sediment input, and habitat availability for the development of a numerical model. The study will serve as the basis for estuarine restoration and preservation plans for endangered salmonid stocks. The NWFSC proposes to beach seine near the Astoria Bridge and place trapnets in Cathlamet Bay. In addition to their current level of take, NWFSC proposes to capture (using beach seines and trap nets), anesthetize, scan for tags, measure, weigh, and release 38 juvenile UWR chinook salmon, 38 juvenile, naturally produced and 23 artificially propagated UCR chinook salmon, 1168 juvenile, LCR chinook salmon, 38 juvenile, naturally produced and 23 artificially propagated SnR spring/summer chinook salmon, and 565 juvenile, SnR fall chinook salmon. The NWFSC also requests an increase of one juvenile, SnR fall chinook salmon and 14 juvenile, LCR chinook salmon to sacrifice for stomach content analysis, scale, and otolith analyses. In addition, The NWFSC requests indirect mortality of two juvenile UWR chinook salmon, one juvenile, naturally produced and 37 artificially propagated UCR chinook salmon, 184 juvenile, LCR chinook salmon, eight juvenile, naturally produced and two artificially propagated SnR spring/summer chinook salmon, and 11 juvenile, SnR fall chinook salmon associated with the study.

Dated: April 9, 2002.

David O'Brien,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02-8962 Filed 4-11-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF DEFENSE**Office of the Secretary****National Security Education Board Group of Advisors Meeting**

AGENCY: National Defense University, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a

forthcoming meeting of the National Security Education Board Group of Advisors. The purpose of the meeting is to review and make recommendations to the Board concerning requirements established by the David L. Boren National Security Education Act, Title VIII of Public Law 102-183, as amended.

DATES: May 6-7, 2002. The meeting will be held on May 6, from 9 am until 5 pm and continue on May 7, from 9 am until 12 pm.

ADDRESSES: Northwestern University, Norris University Center, 1999 South Campus Drive, Evanston, Illinois 60208-2500.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Director for Programs, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn P.O. Box 20010, Arlington, Virginia 22209-2248; (703) 696-1991. Electronic mail address: *colliere@ndu.edu*

SUPPLEMENTARY INFORMATION: The National Security Education Board Group of Advisors meeting is open to the public.

Dated: April 5, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-8871 Filed 4-11-02; 8:45 am]

BILLING CODE 5001-08-M

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:

Uniformed Services University of the Health Sciences.

TIME AND DATE: 8 a.m. to 4 p.m., May 17, 2002.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road Bethesda, MD 20814-4799.

STATUS: Open—under “Government in the sunshine Act” (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8 a.m. Meeting—Board of Regents

- (1) Approval of Minutes—February 27, 2002
- (2) Faculty Matters
- (3) Departmental Reports
- (4) Financial Report
- (5) Report—President, USUHS
- (6) Report—Dean, School of Medicine
- (7) Report—Dean Graduate School of Nursing
- (8) Comments—Chairman, Board of Regents

(9) New Business

FOR MORE INFORMATION CONTACT: Mr. Bobby D. Anderson, Executive Secretary Board of Regents, (301) 295-3116.

Dated: April 10, 2002.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02-9138 Filed 4-10-02; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.184K]

Safe and Drug-Free Schools and Communities National Coordinator Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

SUMMARY: The Assistant Secretary invites applications for new grant awards for FY 2002 for the Safe and Drug-Free Schools and Communities (SDFSC) National Coordinator Program. These grants are authorized under the Elementary and Secondary Education Act of 1965 as amended, title IV, part A, subpart 2, section 4125, SDFSC National Programs. The Assistant Secretary also announces the final priority, definitions, and selection criteria to govern this competition and FY 2002 awards of these grants.

Purpose of Program: The purpose of the SDFSC National Coordinator Program is to provide grants to local educational agencies to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems.

Eligible Applicants: Local educational agencies (LEAs)

Note: LEAs may apply in consortium with one or more adjacent LEAs; however, each LEA in the consortium must meet all requirements of the priority for this competition, and one LEA must serve as lead applicant.

Applications Available: April 12, 2002.

Deadline for Receipt of Applications: May 28, 2002.

Deadline for Intergovernmental Review: July 26, 2002.

Available Funds: Approximately \$12,000,000.

Estimated Number of Awards: 30.

Estimated Size of Awards: \$250,000—\$650,000.

Estimated Average Size of Awards: \$400,000.

Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

SUPPLEMENTARY INFORMATION: In making awards under this grant program, the Assistant Secretary may take into consideration the geographic distribution of the projects in addition to the rank order of applicants.

Contingent upon the availability of funds, the Assistant Secretary may make additional awards in FY 2003 from the rank-ordered list of unfunded applications from this competition.

LEAs receiving grants under this program will use funds to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems. Those coordinators will be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools and for administering the safe and drug-free grant program at those schools.

Definitions

a. For purposes of this competition, “*administering the safe and drug-free grant program*” means that the coordinator will perform the following functions in schools with significant drug and school safety problems:

(1) Identify research-based drug and violence prevention strategies;

(2) Assist schools in adopting the most successful strategies, including training of teachers and staff and relevant partners as needed;

(3) Assist schools in developing and improving school safety plans that address responses to and recovery from large-scale disasters;

(4) Work with parents and students to obtain information about effective programs and strategies and encourage their participation in the development and implementation of those strategies and programs;

(5) Facilitate evaluation of the schools prevention programs and strategies and use findings to modify programs, as needed;

(6) Identify additional funding sources for drug prevention and school safety programming;

(7) Provide information to State educational agencies (SEAs) on programs and activities that have proven to be successful in reducing drug use and violent behavior;

(8) Coordinate with student assistance and employee assistance programs; and
(9) Link other educational resources (e.g., Title I funds) to programs and strategies that serve to create safer, more orderly schools.

b. "*Schools with significant drug and school safety problems*" are defined as those that have identified drug use and school safety as serious problems in their most recent needs assessment and that have taken one or more of the following actions within the 12 months preceding the date of this announcement:

(1) Suspended, expelled, or transferred to alternative schools or programs at least one student for possession, distribution, or use of alcohol or drugs, including tobacco;

(2) Referred for treatment of substance abuse at least five students;

(3) Suspended, expelled, or transferred to alternative schools or programs at least one student for possession or use of a firearm or other weapon; or

(4) Suspended, expelled, or transferred to alternative schools or programs at least five students for physical attacks or fights.

Other Requirements

(a) *Participation by Private School Children and Teachers.* LEAs that receive a National Coordinator Program grant are required to provide for the equitable participation of eligible private school children and their teachers or other educational personnel. In order to ensure that grant program activities address the needs of private school children, timely and meaningful consultation with appropriate private school officials must occur during the design and development of the program. Administrative direction and control over grant funds must remain with the grantee.

(b) *Maintenance of Effort.* An LEA may receive a National Coordinator Program grant only if the SEA finds that the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(c) *Annual Report.* LEAs receiving a grant under this program must report annually to the Department of Education on progress toward meeting measurable goals and objectives of the funded project.

(d) *National Evaluation.* The Department of Education is conducting

a national evaluation of the National Coordinator Program to determine its efficacy as a means of improving prevention programming. Grantees must agree to participate in the evaluation as a condition of receiving a grant.

(e) *Hiring.* LEAs may apply for grant funding under the absolute priority for this competition to hire one or more coordinators to serve schools in the district. Each coordinator hired with funds from this grant must: (1) Serve at least one school and no more than four schools; (2) have no duties other than coordinating and administering the drug prevention and school safety programs in those schools; (3) have a degree from an accredited four-year institution of higher education and an academic background or equivalent work experience in a field related to youth development, such as education, psychology, sociology, social work, or nursing; and (4) participate in any training required by the Department.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed rules. Section 437(d)(1) of the General Education Provisions Act, however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program authority. This is the first competition under the National Coordinator Program, which was substantially revised by the No Child Left Behind Act of 2001.

Absolute Priority: Under 34 CFR 75.105(c)(3) and the Safe and Drug-Free Schools and Communities Act, the Assistant Secretary gives an absolute priority to applications that meet the following priority and funds under this competition only applications that meet this absolute priority. Under the absolute funding priority for this grant competition, LEAs with significant drug and school safety problems in their schools must propose projects that—

Recruit, hire, and train individuals to serve as full-time drug prevention and school safety program coordinator(s) in schools with significant drug and school safety problems, who are responsible only for: (1) Developing, conducting, and analyzing assessments of drug and crime problems at their schools; and (2) administering the school's safe and drug-free grant program as defined in this notice.

Selection Criteria: The Assistant Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for

each criterion is indicated in parentheses.

(1) *Need for the project.* (25 points)
In determining the need for the proposed project, the following factor is considered: The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(2) *Quality of the project design.* (30 points)

In determining the quality of the design of the proposed project, the following factors are considered:

(i) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population;

(ii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance;

(iii) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population, including community coalitions;

(iv) The extent to which the proposed project encourages parental involvement in the development and implementation of the project; and

(v) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(3) *Adequacy of resources.* (25 points)

In determining the adequacy of resources, the following factors are considered:

(i) The adequacy of support, including facilities, equipment, supplies and other resources from the applicant organization or the lead applicant organization;

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits;

(iii) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support; and

(iv) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(4) *Quality of the project evaluation.* (20 points)

In determining the quality of the project evaluation, the following factors are considered:

(i) The extent to which the methods of evaluation are appropriate to the

context within which the project operates;

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies; and

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The National Coordinator Program (84.184K) is one of the programs included in the pilot project. If you are an applicant under the National Coordinator Program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.

- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- Within three working days of submitting your electronic application fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).

4. Place the PR/Award number in the upper right corner of ED 424.

5. Fax ED 424 to the Application Control Center at (202) 260-1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the National Coordinator Program at: <http://e-grants.ed.gov>.

We have included additional information on the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

FOR APPLICATIONS AND FURTHER

INFORMATION CONTACT: Deirdra R. Hilliard, U.S. Department of Education, Safe and Drug-Free Schools Program, 400 Maryland Avenue, SW., Room 3E256, Washington, DC 20202-6123. Telephone: (202) 260-2643, or the following email or internet addresses: deirdra.hilliard@ed.gov www.ed.gov/offices/OESE/SDFS.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document, or an application package in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister

To use PDF you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>

Program Authority: 20 U.S.C. 7135.

Dated: April 9, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02-8971 Filed 4-11-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Tribally Controlled Postsecondary Vocational and Technical Institutions Program

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of proposed extension of project period and waiver.

SUMMARY: We propose to waive the requirement in 34 CFR 75.261(c)(2) as it applies to projects funded under the Tribally Controlled Postsecondary Vocational and Technical Institutions Program (TCPVTIP) in fiscal year (FY) 2001. We propose this waiver in order to be able to extend the project periods for the two current FY 2001 grants awarded under the TCPVTIP. A waiver as proposed would mean that: (1) Current grants may be continued at least through FY 2004 (depending on the availability of appropriations for TCPVTIP in subsequent years under the current statutory authority), instead of ending in FY 2002, and (2) we would not announce a new competition or make new awards in FY 2002, as previously planned.

We are requesting public comments on the proposed extension and waiver.

DATES: We must receive your comments on or before May 13, 2002.

ADDRESSES: Address all comments about this proposed extension and waiver to Sharon A. Jones, U.S. Department of Education, 400 Maryland Avenue, SW., room 4515, Mary E. Switzer Building, Washington, DC 20202-7242. If you prefer to send your comments through the Internet, use the following address: sharon.jones@ed.gov.

FOR FURTHER INFORMATION CONTACT: Sharon A. Jones. Telephone (202) 205-9870.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this proposed extension and waiver in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2001 (66 FR 17036), we issued a notice inviting applications for new awards under the TCPVTIP for FY 2001. In that notice, we announced that the project period would be three years for grants awarded under the competition. On May 16, 2001 (66 FR 27080), we issued a notice modifying the March 28th notice by reducing the project period from three years to one year and extending the application deadline. The one-year project period was intended to provide time for affected parties to confer with us and the Congress on the future implementation of the TCPVTIP.

However, after the May 16th notice was published, Congress enacted the Supplemental Appropriations Act, 2001, Pub. L. 107–20. Section 2701 of Pub. L. 107–20 amended section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins Act), which authorizes the TCPVTIP, and clarified congressional intent with respect to the implementation of the TCPVTIP by—

(a) Limiting eligibility to tribally controlled postsecondary vocational and technical institutions that do not receive Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a *et seq.*); and

(b) Authorizing the use of funds under the TCPVTIP for institutional support.

In light of section 2701 of Pub. L. 107–20, and congressional action taken regarding eligibility and use of funds for institutional support, we believe that multi-year awards, rather than one-year awards, are now more appropriate for projects under this program and that they would result in a more efficient use of Federal funds. Specifically, we believe that it is now preferable and in the best interest of the TCPVTIP for us to issue continuation awards to the existing FY 2001 grantees, rather than hold a new competition in FY 2002.

Moreover, the Perkins Act, which includes the TCPVTIP, expires at the end of FY 2003. With the uncertainties presented by the absence of authorizing legislation for the TCPVTIP beyond 2003, it does not appear to be advisable to hold a competition in FY 2003 for projects that would operate in FY 2004. We are generally reluctant to announce a competition whereby eligible entities would be expected to proceed through the application preparation and submission process while lacking critical information, and do not think that it would be in the public interest to do so in this case.

In addition, it is unlikely that the very limited group of eligible tribally controlled postsecondary vocational and technical institutions, other than the two current grantees, would undertake the effort and cost of applying for funding in FY 2002 or FY 2003 with the authorizing legislation expiring at the end of FY 2003. Thus, a new competition is likely merely to cause existing grantees to expend valuable time and resources applying for program funding under the existing authority, while not providing a meaningful funding opportunity for the limited group of other eligible applicants to apply for Federal funding.

EDGAR Requirement

In order to provide for multi-year awards, we must waive the requirement in 34 CFR 75.261(c)(2), which establishes the conditions for extending a project period, including prohibiting the extension of a program's project period if it involves the obligation of additional Federal funds.

This proposed extension and waiver would allow us to make continuation grants at least in FY 2002 and FY 2003 and perhaps beyond 2003 if Congress continues to appropriate funds for the program under the current statutory authority.

Programs Affected

The two FY 2001 grantees affected by this proposed extension and waiver are Crownpoint Institute of Technology (CIT) and United Tribes Technical College (UTTC). This proposed extension and waiver proposes to extend the current grantees' project periods for two years and for any additional years for which Congress appropriates funds under the current statutory authority. Decisions regarding continuation awards will be made based on Grant Performance Reports submitted by CIT and UTTC and the regulations at 34 CFR 75.253. Consistent with 34 CFR 75.253, we would extend each grant if we determined, among other things, and based on information provided by each grantee, that each grantee was making substantial progress performing grant activities. Under this proposed extension and waiver, (1) the project period for CIT could be extended to August 31, 2004 and UTTC's project could be extended to July 31, 2004 and (2) additional continuation awards could be made for any additional year or years for which Congress appropriates funds under existing statutory authority.

We do not interpret the waiver as exempting the two current grantees from the account closing provisions of Pub. L.

101–510, or as extending the availability of FY 2001 funds awarded to the grantees. As a result of Pub. L. 101–510, appropriations available for a limited period may be used for payments of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the Treasury Department and is unavailable for restoration for any purpose.

We are proposing this extension and waiver in order to—

(1) Give the current grantees early notice of the possibility that additional years of funding may be available through continuation awards;

(2) Provide other eligible entities with notice that if this proposal for extension and waiver is published in final form, the Department will not be announcing a competition under this program in FY 2002; and

(3) Request comments on this proposed extension and waiver.

Invitation To Comment

We invite you to submit comments regarding this proposed extension and waiver. We are particularly interested in receiving comments on the potential impact the extension and waiver may have on eligible tribally controlled postsecondary vocational and technical institutions that are not currently grantees and that may be interested in applying for funding under this program prior to FY 2004, since the proposed extension and waiver would effectively postpone, for at least two or more years, the opportunity for funding new grantees.

We also invite comments on the proposed extension and waiver from Indian tribal governments or their representative organizations, under the terms of Executive Order 13175 (Tribal Consultation).

Additionally, we invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed extension and waiver. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the TCPVTIP.

During and after the comment period, you may inspect all public comments about this proposed extension and waiver in room 4515, Mary E. Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8 a.m. and 4 p.m., Eastern time, Monday through

Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed extension and waiver. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed extension and waiver and the activities required to support additional years of funding would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by this proposed extension and waiver are the FY 2001 projects currently receiving Federal funds and tribally controlled postsecondary vocational and technical institutions that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a *et seq.*). However, the proposed extension and waiver would not have a significant economic impact on these entities because the proposed extension and waiver and the activities required to support the additional years of funding would not impose excessive regulatory burdens or require unnecessary Federal supervision. The proposed extension and waiver would impose minimal requirements to ensure the proper expenditure of program funds, including requirements that are standard to continuation awards.

Paperwork Reduction Act of 1995

This proposed extension and waiver does not contain any information collection requirements.

Intergovernmental Review

The TCPVTIP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether this proposed extension and waiver would require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.245 Tribally Controlled Postsecondary Vocational and Technical Institutions Program)

Dated: April 9, 2002.

Carol D'Amico,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 02-8970 Filed 4-11-02; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[Docket No. EA-262]

Application To Export Electric Energy; TransCanada Power Marketing, Ltd.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: TransCanada Power Marketing, Ltd.. (TCPM) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 13, 2002.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Rosalind Carter (Program Office) 202-586-7903 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and

require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 6, 2002, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from TCPM to transmit electric energy from the United States to Canada. TCPM is formed under Delaware law with its principal place of business in Westborough, MA. TCPM is wholly owned by TransCanada Pipeline USA Ltd., which is a wholly-owned subsidiary of TransCanada Pipelines Limited. TCPM does not own or control any electric power generation or transmission facilities and does not have a franchised electric power service area in the United States. TCPM operates as a power marketer and broker of electric power at wholesale and retail and provides services in related areas such as fuel supplies and transmission services.

TCPM will purchase the power to be exported from electric utilities and federal power marketing agencies within the United States and arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizen Utilities, Eastern Maine Electric Cooperative, International Transmission Company, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by TCPM, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with section 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the TCPM application to export electric energy to Canada should be clearly marked with Docket

EA-262. Additional copies are to be filed directly with Angela Avery, Legal Counsel (Regulatory), TransCanada Power Marketing Ltd., 450—1st Street, SW., Calgary, Alberta T2P 5H1.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.de.gov>. Upon reaching the Fossil Energy Home page, select "Regulatory Programs," then "Electricity Regulation," and then "Pending Proceedings" from the options menus.

Issued in Washington, DC, on April 5, 2002.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 02-8868 Filed 4-11-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Financial Assistance Award (Grant)

Solicitation Number DE-PS03-02SF22493

AGENCY: National Nuclear Security Administration (NNSA), U. S. Department of Energy (DOE).

ACTION: Notice of solicitation of applications for grant awards for high-energy density and laser-matter interaction studies.

SUMMARY: Pursuant to 10 CFR part 600.8, the U. S. Department of Energy (DOE) announces that it plans to conduct a technically competitive solicitation via electronic means for basic research experiments in high energy density and laser matter interaction studies at the National Laser Users' Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE)—Grant Solicitation No. DE-PS03-02SF22493. Universities or other higher education institutions, private sector not-for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding (project cost) expected to be \$800,000 available for Fiscal Year 2003 and approximately

25% more (or \$1,000,000) available in 2004. Multiple awards are anticipated within the amount of funding available.

FOR FURTHER INFORMATION CONTACT:

Janice Williams, Contract Specialist, DOE Oakland Operations Office, 1301 Clay Street, Room 700N, Oakland, CA 94612-5208, Telephone: (510) 637-1914, Facsimile No.: (510) 637-2074, E-mail: janice.williams@oak.doe.gov. James Solomon, Contracting Officer, DOE Oakland Operations Office, 1301 Clay Street, Room 700n, Oakland, CA 94612-5208, Telephone: (510) 637-1865, Facsimile No.: (510) 637-2074, E-mail: james.solomon@oak.doe.gov.

DATES: Applications must be received by 8 PM, Eastern Standard Time (EST) on May 20, 2002.

SUPPLEMENTARY INFORMATION: The solicitation document contains all the information relative to this action for prospective applicants. The solicitation is being issued electronically through the Industry Interactive Procurement System (IIPS). The complete procedures for accessing the solicitation through IIPS are located at <http://e-center.doe.gov>. Users who wish to submit proposals electronically must register to gain access to the solicitation.

MANUAL RESPONSES (HARD COPIES) TO THE SOLICITATION WILL NOT BE ACCEPTED. The solicitation will be available on IIPS on or about April 10, 2002. The actual work to be accomplished will be determined by the experiments and diagnostic techniques that are selected for award. Proposed experiments and diagnostics techniques will be evaluated through scientific peer review against predetermined, published and available criteria. Final selection will be made by DOE. It is anticipated that multiple grants will be awarded within the available funding. The unique resources of the NLUF are available to scientists for state-of-the art Experiments primarily in the area of inertial confinement fusion (ICF) and related Plasma physics. Other areas such as spectroscopy of highly ionized atoms, laboratory astrophysics, fundamental physics, material science, and biology and chemistry will be considered on a secondary basis. The LLE was established in 1970 to investigate the interaction of high power lasers with matter. Available at the LLE for NLUF researchers is the OMEGA LASER, a 30kJ UV 60 beam laser system (at 0.35 um) suitable for direct-drive ICF implosions. This system is suitable for a variety of experiments including laser-plasma interactions and atomic spectroscopy. The NLUF program for FY 2003 and FY 2004 is to concentrate on experiments that can be done with the

OMEGA laser at the University of Rochester and development of diagnostic techniques suitable for the OMEGA system. Measurements of the laser coupling, laser-plasma interactions, core temperature, and core density are needed to determine the characteristics of the target implosions. Diagnostic techniques could include either new instrumentation, development of analysis tools, or development of targets that are applicable for 30 kJ implosions. Additional information about the facilities and potential collaboration at the NLUF can be obtained from: Dr. John Soures, Manager, National Laser Users' Facility, University of Rochester/LLE, 250 East River Road, Rochester, NY 14623.

Issued in Oakland, CA, April 3, 2002

Georgia McClelland,

Acting Director, Financial Assistance Center, National Nuclear Security Administration, U.S. Department of Energy.

[FR Doc. 02-8867 Filed 4-11-02; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-128-000]

Destin Pipeline Company, L.L.C.; Notice of Application

April 5, 2001.

Take notice that on March 29, 2002, Destin Pipeline Company, L.L.C. (Destin), 501 WestLake Park Boulevard, Houston, Texas 77079-2696, filed in Docket No. CP02-128-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Federal Energy Regulatory Commission's (Commission) regulations for a certificate of public convenience and necessity authorizing Destin to make modifications at its Pascagoula Gas Plant, located in Jackson County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" from the RIMS Menu and follow the instructions (call (202) 208-222 for assistance).

Specifically, Destin requests authorization to add an additional gas scrubber and 16-inch ultrasonic gas meters at the inlet and outlet of the gas plant. The additional facilities will have the same design features as the current facilities. These modifications will

increase Destin's current design capacity from the current 1.0 Billion cubic feet (Bcf) per day to 1.2 Bcf per day.

The estimated cost of the project is approximately \$1.2 million. All costs of the project will be borne by Destin Pipeline Company. Destin requests that a final certificate order be issued no later than June 1, 2002, in order to complete the project by October 1, 2002.

Any questions regarding this application should be directed to Mr. Bruce G. Reed, Director, Regulatory Affairs, Destin Pipeline Company, L.L.C., 501 WestLake Park Boulevard, Houston, Texas 77079-2696 or call (281) 366-5062.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 15, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's

environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8899 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-287-057]

El Paso Natural Gas Company; Notice of Compliance Filing

April 5, 2002.

Take notice that on April 1, 2002, El Paso Natural Gas Company (EPNG) tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1-A, the following tariff sheets, to become effective April 1, 2002:

Thirty-Fifth Revised Sheet No. 30

Twenty-Ninth Revised Sheet No. 31

EPNG states that the above tariff sheets are being filed to implement a new negotiated rate contract pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95-6-000 and RM96-7-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8904 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP02-224-000]

**El Paso Natural Gas Company; Notice
of Report and Proposed Change in
FERC Gas Tariff**

April 5, 2002.

Take notice that on April 2, 2002, El Paso Natural Gas Company (EPNG) tendered for filing its report detailing the rate base and cost of service attributable to the Havasu Expansion Facilities after five years of service. EPNG also tendered for filing and acceptance by the Federal Energy Regulatory Commission the following tariff sheets to its FERC Gas Tariff to become effective May 1, 2002:

Second Revised Volume No. 1-A
Seventeenth Revised Sheet No. 22
Twenty-Eighth Revised Sheet No. 24

The tendered tariff sheets are being filed to restate the Reservation Charge related to the Havasu Expansion Facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8916 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP02-222-000]

**Gulf South Pipeline Company, LP;
Notice of Proposed Changes in FERC
Gas Tariff**

April 5, 2002.

Take notice that on April 2, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective May 2, 2002:

First Revised Sheet No. 4010

Gulf South is proposing a revision to the General Terms and Conditions of its tariff to make operational sales across its system during critical operating periods to provide additional flexibility in managing its system during such periods. The proposed revision also provides Gulf South with an additional operational tool to prevent constraints from occurring on its system.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8914 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. RP02-223-000]

**Gulf South Pipeline Company, LP;
Notice of Proposed Changes in FERC
Gas Tariff**

April 5, 2002.

Take notice that on April 2, 2002, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective May 2, 2002:

Third Revised Sheet No. 20
Second Revised Sheet No. 21
Second Revised Sheet No. 22
Second Revised Sheet No. 23
Second Revised Sheet No. 24

In order to facilitate Gulf South's new interconnect with Florida Gas Transmission Company, Gulf South has filed tariff sheets to include SLN 21262. No other changes are being proposed to Gulf South's terms and conditions or its rates.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8915 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP02-220-000]****Kern River Gas Transmission Company; Notice of Report of Fuel and Lost and Unaccounted-For Gas Factors for 2001**

April 5, 2002.

Take notice that on March 29, 2002, Kern River Gas Transmission Company (Kern River) tendered a report supporting its fuel and lost and unaccounted-for gas factors for 2001.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before April 12, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,*Deputy Secretary.*

[FR Doc. 02-8912 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP99-176-052]****Natural Gas Pipeline Company of America; Notice of Compliance Filing**

April 5, 2002.

Take notice that on April 1, 2002, Natural Gas Pipeline Company of

America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 26P.03, to be effective April 1, 2002.

Natural states that the purpose of this filing is to implement an amendment to an existing negotiated rate transaction entered into by Natural and Dynegy Marketing and Trade under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's tariff.

Natural states that copies of the filing are being mailed to all parties set out on the official service list at Docket No. RP99-176.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,*Deputy Secretary.*

[FR Doc. 02-8906 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP01-377-002]****Northern Border Pipeline Company; Notice of Compliance Filing**

April 5, 2002.

Take notice that on March 29, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective May 1, 2002:

Original Sheet No. 99A

Northern Border states that the purpose of this filing is to implement a negotiated rate agreement between Northern Border Pipeline Company and Tenaska Marketing Ventures.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,*Deputy Secretary.*

[FR Doc. 02-8909 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. RP02-219-000]****Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff**

April 5, 2002.

Take notice that on April 1, 2002, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheet proposed to be effective on May 1, 2002:

*Fifth Revised Volume No. 1**Fourth Revised Sheet No. 103**Third Revised Sheet No. 200**Second Revised Sheet No. 110**Ninth Revised Sheet No. 201**Second Revised Sheet No. 125**Sheet No. 223**Second Revised Sheet No. 125F**Fifth Revised Sheet No. 226**Second Revised Sheet No. 133**Sheet No. 234**First Revised Sheet No. 149**First Revised Sheet No. 278**First Revised Sheet No. 163**Fifth Revised Sheet No. 303*

Original Volume No. 2

44 Revised Sheet No. 1C.a

Northern states that the purpose of this filing is to remove obsolete sections from the tariff and clean-up minor items such as incorrect references.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8911 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-221-000]

Pine Needle LNG Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

April 5, 2002.

Take notice that on March 29, 2002, Pine Needle LNG Company, LLC (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised First Revised Tariff Sheet No. 4, with an effective date of May 1, 2002.

Pine Needle states that the instant filing is being submitted pursuant to Section 18 and Section 19 of the General Terms and Conditions (GT&C) of Pine Needle's FERC Gas Tariff (Tariff).

Section 18 of the GT&C of Pine Needle's Tariff states that Pine Needle will file, to be effective each May 1, a redetermination of its fuel retention percentage applicable to storage services. Section 19 of the GT&C of Pine Needle's Tariff provides that Pine Needle will file, also to be effective each May 1, to reflect net changes in the Electric Power (EP) rates.

Pine Needle states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8913 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-13-003]

Portland Natural Gas Transmission System; Notice of Compliance Filing

April 5, 2002.

Take notice that on April 1, 2002, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, to become effective on April 1, 2002:

Substitute Original Sheet No. 650
First Revised Sheet No. 203

PNGTS asserts that the purpose of its filing is to comply with the Commission's order issued on March 1, 2002 in Docket No. RP02-13-001. That order required PNGTS to modify its tariff to ensure that its long-term firm seasonal service is available on a nondiscriminatory basis, to provide certain additional transactional information regarding the existing seasonal contracts, and to make other conforming tariff changes.

PNGTS states that copies of this filing are being served on all jurisdictional customers, applicable state commissions, and participants in Docket No. RP02-13-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8910 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-513-015]

Questar Pipeline Company; Notice of Negotiated Rates

April 5, 2002.

Take notice that on March 29, 2002, Questar Pipeline Company's (Questar) filed a tariff filing to implement an amended negotiated-rate contract for BP Energy Company as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99-513, et al. The Commission

approved Questar's request to implement a negotiated-rate option for Rate Schedules T-1, NNT, T-2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95-6-000 and RM96-7-000 (Policy Statement) issued January 31, 1996. Questar requests that Sixteenth Revised Sheet No. 7 become effective April 1, 2002.

Questar states that a copy of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-8907 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-200-078]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rates

April 5, 2002.

Take notice that on April 1, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised

Volume No. 1, the following tariff sheets to be effective April 1, 2002:

First Revised Sheet No. 632
First Revised Sheet No. 633
Second Revised Sheet No. 634
Second Revised Sheet No. 640

REGT states that the purpose of this filing is to reflect the expiration of four existing negotiated rate contracts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-8901 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-255-043]

TransColorado Gas Transmission Company; Notice of Compliance Filing

April 5, 2002.

Take notice that on March 29, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-Third Revised Sheet No. 21, Twenty-Eighth Revised Sheet No. 22 and Sixteenth Revised Sheet No. 22A, with an effective date of April 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97-255-000.

TransColorado indicates that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect negotiated-rate contract amendments with Western Gas Resources, Inc., Retex, Inc., Enserco Energy, Inc., Sempra Energy Trading, National Fuel Marketing Company and a new contract with Cabot Oil & Gas Corporation to be effective April 1, 2002. An expired contract with El Paso Merchant Energy, L.P. has also been deleted.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-8903 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-359-008]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

April 5, 2002.

Take notice that on March 28, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing copies of the executed service agreements that contain a negotiated rate under Rate Schedule FT applicable

to the Sundance Expansion Project between Transco and various Sundance customers.

Transco states that the purpose of the instant filing is to comply with filing requirements specified in the Commission's Order issued March 29, 2001, "Order Issuing Certificate" which required Transco, among other things, to file, not less than 30 days prior to the commencement of service of the Sundance Expansion Project, the negotiated rate agreements or tariff sheets reflecting the essential elements of its negotiated rate agreements. The anticipated effective date of these negotiated rate agreements is May 1, 2002.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8902 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98-430-002]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

April 5, 2002.

Take notice that on March 29, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for

filing as part of its FERC Gas Tariff, Third Revised Volume No.1, the revised tariff sheets listed in Appendix A attached to the filing. The proposed effective dates of such tariff sheets are July 15, 2001 and September 1, 2001.

Transco states that the purpose of its filing is to submit tariff sheets setting forth, in Transco's revised interconnect policy, a reasonable time frame for responding to requests for interconnections. Transco states that its filing is in compliance with the Commission's February 27, 2002 order in this proceeding.

Transco states that it will serve copies of the instant filing on its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8905 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-472-001, and RP01-31-001]

USG Pipeline Company; Notice of Compliance Filing

April 5, 2002.

Take notice that on April 1, 2002, USG Pipeline Company (USGPC) tendered for filing pursuant to the Commission's March 1, 2002, order in the above-captioned proceeding the following tariff sheets revised in

compliance with the March 1 order and Order Nos. 637, 587-G, and 587-L.

First Revised Sheet No. 32
First Revised Sheet No. 33
First Revised Sheet No. 34
First Revised Sheet No. 35
First Revised Sheet No. 36
First Revised Sheet No. 47
Original Sheet No. 47A
First Revised Sheet No. 51
Original Sheet No. 51A
First Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 57
Original Sheet No. 57A
First Revised Sheet No. 58
First Revised Sheet No. 75
First Revised Sheet No. 76
First Revised Sheet No. 81
First Revised Sheet No. 84
First Revised Sheet No. 89

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8908 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02-79-000, et al.]

PG&E Dispersed Generating Company, LLC, et al; Electric Rate and Corporate Regulation Filings

April 8, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. PG&E Dispersed Generating Company, LLC

[Docket No. EG02-79-000]

Take notice that on April 5, 2002, PG&E Dispersed Generating Company, LLC, a Delaware limited liability company, filed with the Commission an amendment to its application for redetermination of exempt wholesale generator status, pursuant to Section 32 of the Public Utility Holding Company Act of 1935 and Part 365 of the Commission's regulations.

Comment Date: April 29, 2002.

2. Consolidated Edison Company of New York, Inc.

[Docket Nos. EL01-45-001 ER01-1385-001]

Take notice that on March 27, 2002, Consolidated Edison Company of New York, Inc., the New York Independent System Operator, Inc.'s submitted to the Federal Energy Regulatory Commission (Commission) revised tariff sheets dated March 20, 2002 in these proceedings and in Docket ER01-3155-000, Consolidated Edison Company of New York, Inc.'s First Revised Electric Rate Schedule FERC No. 199, effective date September 22, 1998 and filed with the Commission, is to be canceled.

Notice of the proposed cancellation has been served on the parties on the Commission's official service list in these proceedings.

Comment Date: May 6, 2002.

3. Edison Mission Marketing & Trading, Inc., EME Homer City Generation, L.P., Harbor Cogeneration Company, Midwest Generation, LLC, Sunrise Power Co., CL Power Sales One, L.L.C., CL Power Sales Two, L.L.C., CP Power Sales Five, L.L.C., CL Power Sales Six, L.L.C., CL Power Sales Seven, L.L.C., CL Power Sales Eight, L.L.C., CL Power Sales Nine, L.L.C., CL Power Sales Ten, L.L.C., CP Power Sales Twelve, L.L.C., CP Power Sales Thirteen, L.L.C., CP Power Sales Fourteen, L.L.C., CP Power Sales Fifteen, L.L.C., CP Power Sales Seventeen, L.L.C., CP Power Sales Eighteen, L.L.C., CP Power Sales Nineteen, L.L.C., CP Power Sales Twenty, L.L.C., Citizen Power Sales

[Docket Nos. ER99-852-006, ER99-666-002, ER99-1248-002, ER99-3693-001, ER01-2217-002, ER95-892-055, ER95-892-055, ER95-892-055, ER96-2652-049, ER96-2652-049, ER96-2652-049, ER96-2652-049, ER99-893-007, ER99-892-008, ER99-891-008, ER99-890-008, ER99-4229-005, ER99-4230-004, ER99-4228-005, ER99-4231-004, ER94-1685-031]

Take notice that on April 1, 2002, Edison Mission Marketing & Trading, Inc., on behalf of itself and its public utility affiliates listed above, submitted

a consolidated triennial market power analysis update.

Comment Date: April 22, 2002.

4. Carolina Power & Light Company and Florida Power Corporation

[Docket Nos. ER01-1807-009 and ER01-2020-006]

Take notice that on April 2, 2002, Progress Energy, Inc., on behalf of Florida Power Corporation (FPC) and Carolina Power & Light Company (CP&L), tendered for filing with the Federal Energy Regulatory Commission (Commission or FERC) four revised service agreements for network service (Revised Service Agreements) under both FPC's open-access transmission tariff, FERC Electric Tariff, Second Revised Volume No. 6 (FPC's OATT) and CP&L's open-access transmission tariff, FERC Electric Tariff, Third Revised Volume No. 3 (CP&L's OATT), in compliance with the Commission's June 25, 2001, September 21, 2001 and November 26, 2001 orders in these proceedings and an informal staff request. Progress Energy also tenders for filing an index that illustrates the refiling of four Revised Service Agreements under both FPC's OATT and CP&L's OATT and explains why two Revised Service Agreements are not being refilled.

Progress Energy respectfully requests that the Revised Service Agreements become effective December 1, 2000.

Copies of the filing were served upon the City of Tallahassee, the Florida Public Service Commission and North Carolina Utilities Commission.

Comment Date: April 23, 2002.

5. Portland General Electric Company

[Docket No. ER02-338-002]

Take notice that on April 2, 2002, Portland General Electric Company (PGE) filed with the Federal Energy Regulatory Commission (Commission) amendments to PGE's revised Energy Imbalance Service tariff sheets of its Open Access Transmission Tariff in compliance with the Commission's March 15, 2002 letter order in the above-referenced proceeding.

PGE requests that the Commission make the amended tariff sheets effective as of March 1, 2002.

Comment Date: April 23, 2002.

6. Florida Power & Light Company

[Docket No. ER02-700-002]

Take notice that on April 1, 2002, Florida Power & Light Company (FPL) filed, pursuant to the Order issued on February 28, 2002 in the above-captioned proceeding, a compliance filing making the required changes to

the unexecuted Interconnection and Operation Agreement between FPL and Okeechobee Generating, LLC.

Comment Date: April 22, 2002.

7. DeSoto County Generating Company, LLC

[Docket No. ER02-1446-000]

Take notice that on April 1, 2002, DeSoto County Generating Company, LLC (DeSoto) tendered for filing pursuant to Section 205 of the Federal Power Act two Tolling Agreements and a tariff for power sales from its DeSoto generating plant, located in the City of Arcadia, Florida. The two Tolling Agreements are between DeSoto and Florida Power & Light Company, within whose service area the plant is located. Each Tolling Agreement was submitted as an independent rate schedule and the power sales tariff is an "up to" type cost-based tariff for sales of non-Tolling Agreement DeSoto energy. DeSoto requests a April 1, 2002 effective date, which is the expected date of test power sales.

Copies of the filing were served upon Florida Power & Light Company and the Florida Public Service Commission.

Comment Date: April 22, 2002.

8. Central Illinois Light Company

[Docket No. ER02-1447-000]

Take notice that on April 1, 2002, Central Illinois Light Company (CILCO), filed with the Federal Energy Regulatory Commission (Commission) an Interconnection Agreement with the Village of Riverton.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment Date: April 22, 2002.

9. New England Power Pool

[Docket No. ER02-1448-000]

Take notice that on April 1, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials (1) to permit NEPOOL to expand its membership to include Aquila Merchant Services, Inc. (AMS), Sithe New Boston LLC (SNB), and Wellesley Municipal Light Plant (Wellesley); and (2) to terminate the membership of Aquila Energy Marketing Corporation (AEMC). The Participants Committee requests the following effective dates: March 1, 2002 for commencement of participation in NEPOOL by AMS and the termination of AEMC, April 1, 2002 for commencement of participation in NEPOOL by SNB, and June 1, 2002 for commencement of participation in NEPOOL by Wellesley.

The Participants Committee states that copies of these materials were sent

to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: April 22, 2002.

10. New England Power Pool

[Docket No. ER02-1449-000]

Take notice that on April 1, 2002, the New England Power Pool (NEPOOL) Participants Committee submitted a filing requesting acceptance of its decision to make payment to CMEEC pursuant to Section 7(g) of the Restated NEPOOL Agreement to compensate it for operation of its quick-start generation on February 28, 2000. NEPOOL respectfully requests that the Commission accept these arrangements to compensate CMEEC to become effective June 1, 2002.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment Date: April 22, 2002.

11. IRH Management Committee

[Docket No. ER02-1450-000]

Take notice that on April 1, 2002, the IRH Management Committee, acting on behalf of the parties to the Agreement with Respect to Use of Quebec Interconnection, as amended, filed Amendments to The Third Amended And Restated Agreement With Respect To Use Of Quebec Interconnection (the Restated Use Agreement) and a related agreement entitled "Agreement Amending Third Amendment And Restatement Of Agreement With Respect To Use Of Quebec Interconnection" and related materials.

The IRH Management Committee states that the proposed amendments to the Restated Use Agreement will provide for more efficient and flexible use of the direct current interconnection facilities between Quebec, Canada and New England and greater integration of those facilities into the overall transmission and market system in New England. An effective date of June 1, 2002 has been requested.

The IRH Management Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and all Interconnection Rights Holders (IRH) and Indirect IRH.

Comment Date: April 22, 2002.

12. Ameren Energy Marketing Company

[Docket No. ER02-1451-000]

Take notice that on April 1, 2002, Ameren Energy Marketing Company

(AEM) filed a power sales agreement to allow sales of capacity and energy at market-based rates to its affiliate, Union Electric Company d/b/a AmerenUE. AEM seeks an effective date of June 1, 2002, for the power sales agreement with AmerenUE.

Copies of this filing were served on the affected state utility commissions.

Comment Date: April 22, 2002.

13. Puget Sound Energy, Inc.

[Docket No. ER02-1452-000]

Take notice that on April 1, 2002, Puget Sound Energy, Inc. (Puget) tendered for filing Operating Procedures under the Pacific Northwest Coordination Agreement (PNCA).

Puget states that the Operating Procedures relate to service under the PNCA. A copy of the filing was served upon the parties to the PNCA.

Comment Date: April 22, 2002.

14. Southwest Power Pool, Inc.

[Docket No. ER02-1453-000]

Take notice that on April 1, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing two executed service agreements for Firm Point-to-Point Transmission Service with Western Resources d.b.a. Westar Energy (Transmission Customer) as Service Agreements Nos. 690 and 691.

SPP seeks an effective date of April 1, 2002 for Service Agreement No. 690, and May 1, 2002, for Service Agreement No. 691.

The Transmission Customer was served with a copy of this filing.

Comment Date: April 22, 2002

15. Duke Electric Transmission

[Docket No. ER02-1454-000]

Take notice that on April 1, 2002, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement under Duke's Open Access Transmission Tariff for Non-Firm Point-to-Point Transmission Service between Duke and UBS AG, London Branch (Customer). Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR Part 35.

Duke requests that the proposed Service Agreement become effective on March 20, 2002.

Duke states that a copy has been served on the North Carolina Utilities Commission.

Comment Date: April 22, 2002.

16. Duke Electric Transmission

[Docket No. ER02-1455-000] Take notice that on April 1, 2002, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement with Duke Power, for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR Part 35.

Duke requests that the proposed Service Agreement be permitted to become effective on March 20, 2002.

Duke states that a copy has been served on the North Carolina Utilities Commission.

Comment Date: April 22, 2002.

17. Cinergy Services, Inc.

[Docket No. ER02-1456-000]

Take notice that on April 1, 2002, Cinergy Services, Inc. (Cinergy) tendered for filing a Notice of Name Change from Missouri Public Service -a division of Utilicorp United Inc. to Aquila, Inc. d/b/a Aquila Networks.

A copy of the filing was served upon Aquila, Inc. d/b/a Aquila Networks—MPS.

Comment Date: April 22, 2002.

18. Cinergy Services, Inc.

[Docket No. ER02-1457-000]

Take notice that on April 1, 2002, Cinergy Services, Inc. (Cinergy) tendered for filing a Notice of Name Change from WestPlains Energy—Kansas a division of Utilicorp United Inc. to Aquila, Inc. d/b/a Aquila Networks—MPS

A copy of the filing was served upon Aquila, Inc. d/b/a Aquila Networks—MPS

Comment Date: April 22, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://>

www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02-8898 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2416-009, South Carolina]

Aquenergy Systems, Inc.; Notice of Availability of Final Environmental Assessment

April 5, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Ware Shoals Hydroelectric Project and has prepared a Final Environmental Assessment (FEA) for the project. The project is located on the Saluda River, in the Town of Ware Shoals, within the counties of Laurens, Greenwood, and Abbeville, South Carolina. No federal lands or facilities are occupied or used by the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is on file with the Commission and is available for public inspection. The FEA may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link—select "Docket #" and follow the instructions (call 202-208-2222 for assistance).

For further information, contact Timothy Looney at (202) 219-2852.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-8917 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 5, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2984-042.

c. *Date Filed:* March 29, 2002.

d. *Applicant:* S.D. Warren Company.

e. *Name of Project:* Eel Weir Project.

f. *Location:* On the Presumpscot River at Sebago Lake, in Cumberland County, Maine. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825®)

h. *Applicant Contact:* Thomas P. Howard, S.D. Warren Company, 89 Cumberland Street, P.O. Box 5000, Westbrook, ME 04098-1597, (207) 856-4286.

i. *FERC Contact:* Allan Creamer at (202) 219-0365, or allan.creamer@ferc.gov.

j. *Cooperating Agencies:* We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item k below.

k. *Deadline for Filing Additional Study Requests and Requests for Cooperating Agency Status:* 60 days from the filing date shown in paragraph (c), or May 28, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (<http://www.ferc.gov>) under the "e-Filing" link.

l. *Status:* This application is not ready for environmental analysis at this time.

m. *Description of Project:* The existing Eel Weir Project operates in a store-and-release mode. The Eel Weir Project consists of the following features: (1) a 115-foot-long, 23-foot-high stone masonry spillway dam; (2) a 150-foot-long, 10-foot-high stone and earth-fill east abutment section; (3) a 90-foot-long, 5-foot-high stone and earth-fill west abutment section; (4) five 6.5-foot-high by 4.75-foot-wide discharge gates; (5) four 8.8-foot-high by 7-foot-wide canal intake gates; (6) a 12-mile-long, 28,771-acre, reservoir, Sebago Lake, at elevation 266.65 msl; (7) a 90-foot-long fish screen located upstream of the canal gates; (8) a 4,826-foot-long, 15-foot-deep earthen power canal; (9) a 90-foot-long timber-sheathed canal overflow weir; (10) a powerhouse containing three Hercules turbines and generating units, having an installed capacity of 1,800 kW; (11) a 3.5-mile-long, 11-kV transmission line; and (12) appurtenant facilities.

The applicant estimates that the average annual generation would be about 12,300 MWh. All generated power is utilized by the applicant's paper mill in Westbrook, Maine.

n. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link—select "Docket #" and follow the instructions (call 202-208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

o. With this notice, we are initiating consultation with the MAINE STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

p. *Procedural schedule and final amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing: Notice of application has been accepted for filing
Notice of NEPA Scoping
Notice of application is ready for environmental analysis
Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document

Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,

Secretary.

[FR Doc. 02-8918 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 5, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 7000-015.

c. *Date filed:* January 30, 2002.

d. *Applicant:* Newton Falls Holdings, LLC (NFH).

e. *Name of Project:* Newton Falls Hydroelectric Project.

f. *Location:* The existing project is located on the Oswegatchie River in St. Lawrence County, New York. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Harold G. Slone, Manager, Newton Falls Holdings, LLC, 1930 West Wesley Road, NW., Atlanta, GA 30327; Telephone (770) 638-1172.

i. *FERC Contact:* Jim Haines, (202) 219-2780 or james.haines@ferc.gov

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's rules of practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR

385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The constructed and operating Newton Falls Hydroelectric Project consists of an upper and a lower development with a combined installed capacity of 2,220 kilowatts (kW). The project produces an average annual generation of 9,500,000 kilowatt-hours. From approximately 1927 until late 2000, the electricity produced by the project was consumed by the adjacent Newton Falls Paper Mill. Since this facility ceased manufacturing operations, almost all electricity produced at the project has been sold to the Niagara Mohawk Power Corporation.

The upper development includes the following constructed facilities: (1) A 40-foot-high, 600-foot-long, concrete gravity dam with 3-foot-high flash boards mounted on the 58-foot-long spillway; (2) a 42-foot-long floodgate structure with four gates; (3) a 650-acre reservoir with a gross storage capacity of 5,930 acre-feet; (4) a reinforced concrete intake structure with a maximum height of 25 feet, equipped with trash racks having 2-inch spacing; (5) a 9-foot-diameter, 1,200-foot-long, wood stave penstock supported on timber cradles and mud sills; (6) a riveted steel surge tank; (7) a 49-foot-long, 26-foot-wide, and 45-foot-high, reinforced concrete and brick powerhouse, containing three vertical Francis turbines with a combined maximum hydraulic capacity of 464 cubic feet per second (cfs) and a net head of 46 feet, directly connected to three generator units having a total installed capacity of 1,540 kilowatts (kW); (8) a 375-foot-long, 60 Hertz transmission line; and (9) appurtenant facilities.

The lower development includes the following constructed facilities: (1) A 28-foot-high, 350-foot-long, concrete gravity dam with 3-foot-high flash boards mounted on the 120-foot-long spillway; (2) a 9-acre impoundment with a gross storage capacity of 115 acre-feet; (3) a 15-foot-high, reinforced concrete intake structure, equipped with trash racks having 2-inch spacing; (4) a 60-foot-long by 40-foot-wide, reinforced concrete powerhouse located immediately downstream of the dam, containing one vertical Francis turbine with a maximum hydraulic capacity of 486 cfs and a net head of 22 feet, directly connected to a 680-kW

generator unit; (5) a 2,200-foot-long, 60 Hertz transmission line; and (6) appurtenant facilities.

With the exception of periods of high inflows, the upper development is operated as a daily peaking facility with most generation taking place during the hours of peak electricity demand. This store and release operation is restricted during the months of May and June, the spawning period for smallmouth bass and northern pike, such that daily reservoir drawdowns do not exceed 1 foot from the top of the flash boards. During the remainder of the year, daily peaking causes reservoir drawdowns of up to 2.2 feet from the top of the flash boards.

The tailrace of the upper development discharges directly into the lower development's reservoir. Generally, the hydraulic output of the lower powerhouse is established such that it releases approximately the same flow as the upper one. Consequently, daily drawdowns of the lower reservoir are minimal.

Although the project's current license does not mandate the provision of minimum flows in the project's bypassed reaches, the licensee is required to provide a continuous minimum flow of 100 cfs or project inflow, whichever is less, below the lower development. Further, the existing license does not require the provision of public recreational facilities at the project.

Currently, the applicant and concerned agencies and non-governmental organizations are discussing a settlement agreement that would require NFH to implement various environmental enhancement measures at the project.

m. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, Room 2A, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208-1371. The application may be viewed on the web at <http://www.ferc.gov> using the "RIMS" link—select "Docket P-7000" and follow the instructions (call (202)208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a

party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. 02-8919 Filed 4-11-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

April 5, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12134-000.

c. *Date filed:* October 12, 2001.

d. *Applicant:* South Dakota Conservancy District.

e. *Name of Project:* Dakota Pumped Storage Project.

f. *Location:* On the Missouri River in Charles Mix and Gregory Counties, South Dakota.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)-825®)

h. *Applicant Contact:* Gregg Greenfield, Chairman, South Dakota Conservancy District, 523 East Capitol Ave., Pierre, South Dakota 57501-3181, (605) 773-4216.

i. *FERC Contact:* Elizabeth Jones (202) 208-0246.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice. This application is being noticed as a result of the Commission's Order Extending Filing Deadline For Notice of Intent issued on April 1, 2002 (99 FERC ¶ 61,009).

k. *Competing Application:* Project No. 12055-000.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (12134-000) on any comments, protests, or motions filed.

The Commission's rules of practice and procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed project would use Lake Francis Case created by the U.S. Corps of Engineers' Fort Randall Dam as the lower reservoir and would consist of: (1) A proposed upper reservoir having a maximum surface area of 540-acres and a storage capacity of 24,000 acre-feet; a proposed forebay power intake; a proposed deflector dike extending 3,000 feet from the bankline outward and another 4,000 feet downstream in Lake Frances Case, (2) two proposed power tunnels, each 24-feet in diameter, with the lower, high pressure tunnel 7,665 feet long and the upper, low pressure tunnel 1,250 feet long, (3) a proposed powerhouse containing four reversible turbines with capacities of 300 MW each for a total installed capacity of 1200 MW, (4) proposed minimum of two 345 kV transmission lines, and (5) appurtenant facilities.

The project would have an estimated annual generation of 2.36 GWh.

m. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions ((202) 208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

n. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36).

Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title “COMMENTS”, “NOTICE OF INTENT TO FILE COMPETING APPLICATION”, “COMPETING APPLICATION”, “PROTEST”, “MOTION TO INTERVENE”, as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission’s regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency’s comments must also be sent to the Applicant’s representatives.

Magalie R. Salas,
Secretary.

[FR Doc. 02–8920 Filed 4–11–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7170–3]

Agency Information Collection Activities: Continuing Collection; Comment Request; Used Oil Management Standards Recordkeeping and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Used Oil Management Standards Recordkeeping and Reporting

Requirements, EPA ICR Number 1286, OMB Control Number 2050–0124, expires 6/30/2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 11, 2002.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2002–UO2N–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002. Hand deliveries of comments should be made to the Arlington, VA address below.

Comments may also be submitted electronically through the Internet to: <http://www.rcra-docket@epa.gov>. Comments in electronic format should also be identified by the docket number F–2002–UO2N–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit any confidential business information (CBI) electronically. An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. This notice and the supporting document that details the Used Oil ICR are also available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT:

RCRA Hotline

For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

Used Oil ICR Details

For more detailed information on specific aspects of the used oil information collect requests, contact Mike Svizzero by mail at Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by phone at (703) 308–0046, or by Internet e-mail at svizzero.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Availability

Today’s notice and the supporting document that details the Used Oil ICR are available on the Internet at: <http://www.epa.gov/epaoswer/hazwaste/usedoil/index.htm>.

Note: The official record for this action will be kept in paper form and maintained at the address in the **ADDRESSES** section above.

Used Oil ICR Renewal

Affected entities: Entities potentially affected by this action are those which handle or manage used oil including used oil transporters, transfer facilities, processors, re-refiners, and off-specification burners.

Title: Used Oil Management Standards Recordkeeping and Reporting Requirements (OMB Control No. 2050–0124; EPA ICR No. 1286) expiring 06/30/2002.

Abstract: EPA is seeking public comment on the Used Oil Management Standards Recordkeeping and Reporting Requirements ICR (Used Oil ICR) prior to submitting it to OMB for renewal. The Used Oil Management Standards, which include information collection requests, were developed in accordance with Section 3014 of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), which directs EPA to “promulgate regulations * * * as may be necessary to protect public health and the environment from the hazards associated with recycled oil” and, at the same time, to not discourage used oil recycling. In 1985 and 1992, EPA established mandatory regulations that govern the management of used oil (see 40 CFR part 279). To document and ensure proper handling of used oil, these regulations establish notification, testing, tracking and recordkeeping requirements for used oil transporters, processors, re-refiners, marketers, and burners. They also set standards for the prevention and cleanup of releases to the environment during storage and transit, and for the safe closure of storage units and processing and re-refining facilities to mitigate future releases and damages. EPA believes

these requirements minimize potential hazards to human health and the environment from the potential mismanagement of used oil by used oil handlers, while providing for the safe recycling of used oil. Information from these information collection requirements is used to ensure compliance with the Used Oil Management Standards.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

EPA would like to solicit comments to:

- (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (iii) Enhance the quality, utility, and clarity of the information to be collected; and
- (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

The total information collection burden to the regulated community for complying with part 279 is approximately 460,286 hours per year, which represents an annual cost of \$10,011,301. The ICR burden and cost for each category of used oil handler is detailed in the ICR supporting document available free of cost from the RCRA Information Center.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of

information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 18, 2002.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 02-8953 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6628-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

Summary of Rating Definitions Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

ERP No. D-BLM-L60107-OR Rating NS, Coos County Natural Gas

Transmission Pipeline, Construction, Operation and Maintenance of a Natural Gas Pipeline from Roseburg to Coos Bay, Right-of-Way Grant, Coos Bay District, Coos County, OR.

Summary: EPA Region 10 used a screening tool to conduct a limited review of the draft EIS. Based on the screen, EPA does not foresee having any environmental objections to the proposed action. Therefore, EPA did not conduct a detailed review.

ERP No. D-FHW-G40169-AR Rating EC2, Springdale Northern Bypass Project, US Highway 412 Construction, Funding and NPDES Permit Issuance, Benton and Washington Counties, AR.

Summary: EPA expressed environmental concerns with the proposed action and requested additional information regarding stormwater best management practices, noise mitigation and stream bank restoration.

Final EISs

ERP No. F-AFS-L65368-ID Curfew National Grassland Land and Resource Management Plan, Implementation, Caribou-Targhee National Forest, Oneida County, ID.

Summary: The final EIS addressed most of EPA's comments on the draft EIS and EPA has no objection to the proposed action.

ERP No. F-FHW-G40160-OK I-40 Crosstown Expressway Transportation Improvements, I-235/I-35 Interchange west to Meridian Avenue, Funding, Oklahoma City, Oklahoma County, OK.

Summary: EPA had no further comments.

ERP No. F-FHW-G40165-NM US 70 Corridor Improvement, Ruidoso Downs to Riverside, Funding and Right-of-Way Acquisition, Lincoln County, NM.

Summary: EPA has no further comments.

ERP No. F-FHW-K40236-HI Kihei-Upcounty Maui Highway Transportation Improvements, Funding and US Army COE Section 404 Permit Issuance, Maui County, HI.

Summary: EPA welcomes the mitigation presented in the FEIS to avoid and/or reduce adverse water quality impacts from the project's construction and operation. EPA asked that commitments to protect water quality and recycle construction-related solid waste be included in FHWA's Record of Decision.

ERP No. F-FHW-K40240-CA CA-70 Two-Lane Expressway Upgrade to a Four-Lane Expressway/Freeway south of Striplin Road to south of McGowan Road Overcrossing, Funding and US Army COE Section 404 Permit Issuance, Sutter and Yuba Counties, CA.

Summary: EPA found the FEIS adequately addresses most of the issues raised in our comment letter on the DEIS. However, EPA reiterated environmental concerns about air quality impacts and wetland mitigation, and requested this information be provided in the Record of Decision.

ERP No. FS-BLM-J67019-MT Zortman and Landusky Mines Reclamation Plan, Modifications and Mine Life Extensions, Updated Information to Analyze Additional Reclamation Alternatives, Mine Operations Approval, Mine Reclamation and US Army COE Section 404 Permits Issuance, Little Rocky Mountains, Phillip County, MT.

Summary: EPA expressed lack of objections with selection of the preferred alternatives, Z-6 and L-4. However, EPA noted that the implementation of these alternatives will require additional funding. EPA would have objections with the selection of within bond alternatives Z-3 and L-3 based on substantial risk of not attaining water quality standards in the long-term due to increased contaminated leachate.

Dated: April 9, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-8956 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6628-1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements

Filed April 01, 2002 Through April 05, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020128, Final EIS, AFS, CO, Bark Beetle Analysis, Proposal to Reduce Infestation of Trees by Tree-Killing Bark Beetles, Medicine Bow-Routt National Forests, Hahans Peak/Bears Ears Ranger District, Routt, Grand, Jackson and Moffat Counties, CO, Wait Period Ends: May 13, 2002, Contact: Andy Cadenhead (970) 870-2220.

EIS No. 020129, Draft EIS, BLM, OR, Kelsey Whisky Landscape Management Planning Area, Implementation, Associated Medford District Resource Management Plan

Amendments, Joseph and Jackson Counties, OR, Comment Period Ends: July 12, 2002, Contact: Sherwood Tubman (541) 618-2399. This document is available on the Internet at: www.or.blm.gov/medford.

EIS No. 020130, Draft Supplement, NPS, ID, MT, WY, MT, WY, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway, Winter Use Plans, Updated and New Information on New Generation of Snowmobiles that Produce fewer Emissions and are Quieter, Fremont County, ID, Gallatin and Park Counties, MT and Park and Counties, WY, Comment Period Ends: May 29, 2002, Contact: Madeleine VanderHeyden (307) 739-3385.

EIS No. 020131, Final Supplement, AFS, CO, Uncompahgre National Forest Travel Plan Revision and Forest Plan Amendment, Updated Information concerning New Travel Restrictions for Resource Management, Recreational Opportunities and Winter Travel, Implementation, Gunnison, Hinsdale, Mesa, Montrose, Ouray, San Juan and San Miguel Counties, CO, Wait Period Ends: May 13, 2002, Contact: Jeff Burch (970) 874-6649.

EIS No. 020132, Draft EIS, FHW, KS, US 59 Highway Improvements Construction, Lawrence to Ottawa, Funding, NPDES Permit Issuance and Possible US Army COE Permit Issuance, Douglas and Franklin Counties, KS, Comment Period Ends: May 30, 2002, Contact: David R. Geiger (785) 267-7287.

EIS No. 020133, Draft EIS, FHW, VA, Capital Beltway Study, Transportation Improvements to the 14-mile Section Capital Beltway (I-495) between the I-95/I-395/I-495 Interchange and the American Legion Bridge, Fairfax County, VA, Comment Period Ends: May 28, 2002, Contact: Edward S. Sundra (804) 775-3338.

EIS No. 020134, Draft EIS, MMS, AL, LA, MS, TX, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales: 2003-2007, Starting in 2002 the Proposed Central Planning Area Sales 185, 190, 194, 198, and 201 and Western Planning Area Sales 187, 192, 196, and 200, Offshore Marine Environment and Coastal Counties Parishes of Texas, LA, AL and MS, Comment Period Ends: May 31, 2002, Contact: Archie Melancon (703) 787-1547.

EIS No. 020135, Final EIS, FHW, TN, I-40 Transportation Improvements from I-75 to Cherry Street in Knoxville, Funding, NPDES and COE Section 404 Permits, Knox County, TN, Wait

Period Ends: May 13, 2002, Contact: Mark Doctor (615) 781-5788.

EIS No. 020136, Final EIS, FHW, MT, Montana State Primary Route 78 (P-78), Reconstruction, Widening and Realignment, from the junction with State Secondary Route 419 (S-419) which is just South of Abarokee, to the Southern end of the Yellowstone River Bridge which is just south of Columbus, MT, Wait Period Ends: May 13, 2002, Contact: Dale W. Paulson (406) 449-5302.

EIS No. 020137, Draft EIS, HHS, GA, Chamblee Campus Centers for Disease Control and Prevention (CDC) Expansion, Atlanta Metro Area, City of Chamblee, Dekalb County, GA, Comment Period Ends: May 28, 2002, Contact: Phil Youngberg (404) 562-0787. This document is available on the Internet at: <http://www.phe.com>

EIS No. 020138, Final EIS, BIA, WA, White River Amphitheatre Project, Construction and Operation an 20,000 Seat Open-Air Amphitheatre on the Muckleshoot Indian Reservation, COE Section 404 Permit and NPDES Permit, Seattle-Tacoma, WA, Wait Period Ends: May 13, 2002, Contact: June Boynton (503) 231-6749.

EIS No. 020139, Final EIS, UAF, MT, Montana Air National Guard Air-to-Ground Training Range Development for Use by the 120th Fighter Wing (120th FW), Implementation, Phillips and Blaine Counties, MT, Wait Period Ends: May 13, 2002, Contact: Lt. Col. Tammy Mitnik (301) 836-8636.

EIS No. 020140, Final EIS, FTA, CA, BART-Oakland International Airport Connector, Extending south from the Existing Coliseum BART Station, about 3.2 miles, to the Airport Terminal Area, Alameda County, CA, Wait Period Ends: May 13, 2002, Contact: Donna Turchie (415) 744-3115.

EIS No. 020141, Draft EIS, COE, WV, Spruce Mine Number 1 Surface Mining Construction Project, US Army COE Section 404 and NPDES Permits Issuance, Blair, Logan County, WV, Comment Period Ends: May 28, 2002, Contact: James M. Richmond (304) 529-5210.

EIS No. 020142, Final EIS, FHW, NY, Interstate 86/Route 15 Interchange and Route 15/ Gang Mills Interchange, New Roadway and Ramp Construction, Intersection Reconstruction, New Bridges and Bridge Rehabilitation, Town of Erwin, Steuben County, NY, Wait Period Ends: May 13, 2002, Contact: Robert Arnold (518) 431-4127.

Dated: April 09, 2002.

Joseph C. Montgomery,
Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-8957 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7170-7]

Gulf of Mexico Program Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Management Committee (MC).

DATES: The Meeting will be held on Wednesday, May 8, 2002, from 1 p.m. to 5:30 p.m. and on Thursday, May 9, 2002, from 8 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 315 Julia Street, New Orleans, Louisiana. (504-525-1993)

FOR FURTHER INFORMATION CONTACT:

Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529-6000 at (228) 688-2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items will include: Presentation of MC Ad Hoc Workgroup recommendations on GMP performance, Louisiana Coastal Area Initiative presentation, Mercury in Gulf Fisheries follow-up, Invasive Species-Gulf Regional Panel Transition discussion, Lower Mississippi River Sub-basin Committee Presentation and FY 2002/ FY 2003 Status of Projects Presentation.

The meeting is open to the public.

Dated: April 14, 2002.

Gloria D. Car,
Designated Federal Officer.

[FR Doc. 02-8954 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0008; FRL-6832-5]

Sodium Acifluorfen (Blazer); Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the revised risk assessments, which include some new information not available at the time of the preliminary risk assessment, and related documents for the pesticide, sodium acifluorfen. In addition, this notice starts a 45-day public participation period during which the public is encouraged to submit comments on the new information not available previously in the preliminary risk assessments and comments on risk management ideas or proposals for sodium acifluorfen. This action is in response to a joint initiative between EPA and the US Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for all pesticides.

DATES: Comments, identified by docket control number OPP-2002-0008, must be received by EPA on or before May 28, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-2002-0008 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Christina Scheltema, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 308-2201; e-mail address: scheltema.christina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on sodium acifluorfen, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically.* You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

To access information about pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at <http://www.epa.gov/pesticides/op/>.

B. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0008. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The PIRIB telephone number is (703) 305-5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-2002-0008 in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* Submit electronic comments by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP-2002-0008. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments, which include some new information not available at the time of the preliminary risk assessments, and related documents for the pesticide, sodium acifluorfen. These documents have been developed as part of the pilot public participation process that EPA

and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide some new information on the human health effects of sodium acifluorfen, and information on the revisions that were made to the sodium acifluorfen preliminary risk assessments, which were released to the public July 26, 2001 (66 FR 3904) (FRL-6789-4), through a notice in the **Federal Register**.

In addition, this notice starts a 45-day public participation period during which the public is encouraged to submit comments on the new information not available previously during the earlier public comment period for the sodium acifluorfen preliminary risk assessment, and risk management proposals or other comments on risk management for sodium acifluorfen. The Agency is providing an opportunity, through this notice, for interested parties to provide written comments on the new sodium acifluorfen health effects information as well as risk management proposals or ideas on sodium acifluorfen. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific sodium acifluorfen use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest ("preharvest intervals"), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, commenters may

suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commenters may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. All comments and proposals must be received by EPA on or before May 28, 2002 at the addresses given under the **ADDRESSES** section. Comments and proposals will become part of the Agency record for the pesticide specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: April 3, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02-9055 Filed 4-10-02; 12:42 pm]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-44655; FRL-6831-4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on 1,1,2-Trichloroethane (1,1,2-TCE) (CAS No. 79-00-5). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone numbers: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about data on health and/or environmental effects and other characteristics of this chemical. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action

to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations"; "Regulations and Proposed Rules," and then look up the entry for this document under "**Federal Register—Environmental Documents.**" You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

B. *In person.* The Agency has established an official record for this action under docket control number OPPTS-44655. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

III. Test Data Submissions

Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to enforceable consent agreements/orders will be announced to the public in accordance with section 4(d) of TSCA.

Test data for 1,1,2-Trichloroethane, a hazardous air pollutant (HAP) listed under section 112 of the Clean Air Act Amendments of 1990, were submitted by the HAP Task Force. These data were submitted pursuant to a TSCA section 4 enforceable consent agreement/order and were received by EPA on February 7, 2002. The submission includes a final

report entitled "Pharmacokinetics of 1,1,2-Trichloroethane in Rats and Mice by Battelle Pacific Northwest Laboratory." 1,1,2-TCE is used as a feedstock intermediate in the production of vinylidene chloride and some tetrachloroethanes. It is used as a solvent where its high solvency for chlorinated rubbers and other substances is needed, and for pharmaceuticals and electronic components.

EPA has initiated its review and evaluation process for this submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Hazardous substances, Toxic substances.

Dated: April 2, 2002.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02-8955 Filed 4-11-02; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

April 5, 2002.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

Federal Communications Commission

OMB Control No.: 3060-0855.

Expiration Date: 09/30/2002.

Title: Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 96-45.

Form No.: FCC Form 499 (FCC Forms 499-A and 499Q).

Respondents: Business or other for-profit; Not for profit institutions.

Estimated Annual Burden: 5500 respondents; 15 hours per response (avg.); 82,487 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$14,000.

Frequency of Response: On occasion; Annually; Quarterly.

Description: Pursuant to the Communications Act of 1934, as amended, telecommunications carriers (and certain other providers of telecommunications services) must contribute to the support and cost recovery mechanisms for telecommunications relay services, numbering administration, number portability, and universal service. Respondents file their gross-billed end-user telecommunications revenues on a quarterly basis in FCC Form 499-Q, and on an annual basis in FCC Form 499-A. FCC Form 499-A is filed on annually on April 1. (No. of respondents: 3500; hours per response: 9.5, total annual burden: 33,250 hours). The FCC Form 499-Q has been revised. The revised form permits affiliated legal entities to make consolidated filings if they meet ten conditions. Filers making the election must certify to ten conditions. See Report and Order issued in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-166 and 98-170 (FCC 02-43) released February 26, 2002. Carriers must file the revised FCC Form 499-Q on May 1, 2002. (No. of respondents: 2000; hours per response: 6 hours x 4 filings = 24 hours; total annual burden: 48,000 hours). Carriers are required to file FCC Form 499-Q reporting their revenues from the prior quarter, by the beginning of the second month of the current quarter (i.e., February 1, May 1, August 1, and November 1). Copies of the Instructions and FCC Form 499-A and the revised FCC Form 499-Q may be obtained from the Commission's Form Web Page (www.fcc.gov/formpage.html). Copies may also be obtained from the National Exchange Carrier Association (NECA) at (973) 560-4400. Obligation to respond: Mandatory.

OMB Control No.: 3060-0814.

Expiration Date: 03/31/2005.

Title: Section 54.301, Local Switching Support and Local Switching Support Data Collection Form and Instructions.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 195 respondents; 19.42 hours per response (avg.); 3787 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Frequency of Response: On occasion; Annually.

Description: Pursuant to Section 54.301, each incumbent local exchange carrier that is not a member of the NECA common line tariff, that has been designated an eligible

telecommunications carrier, and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the projected total unseparated dollar amount assigned to each account in Section 54.301(b). (No. of respondents: 157; ours per response: 24 hours; total annual burden: 3768 hours). Average schedule companies are required to file information pursuant to Section 54.301(f). (No. of respondents: 38; hours per response: .5 hours; total annual burden: 19 hours). Both respondents must provide true-up data. The data is necessary to calculate the average unseparated local switching revenue requirement. This revenue requirement is necessary to calculate the amount of local switching support that carriers will receive. Obligation to respond: Mandatory.

OMB Control No.: 3060-0512.

Expiration Date: 4/30/2005.

Title: ARMIS Annual Summary Report.

Form No.: FCC Report 43-01.

Respondents: Business or other for-profit.

Estimated Annual Burden: 121 respondents; 14.36 hours per response (avg.); 11,737 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Frequency of Response: Annually.

Description: Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), authorizes the Commission by a general or special orders to require any carriers subject to this Act to file annual reports concerning any matters with respect to which the Commission is authorized or required by law to act. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS 43-01 Report contains financial and operating data and is used to monitor the incumbent local exchange carriers (ILECs) and to perform routine analyses of costs and revenues. ARMIS 43-01 Report

facilitates the annual collection of the results of accounting, rate base, and cost allocation requirements prescribed in Parts 32, 36, 64, 65, and 69 of the Commission's Rules and Regulations. The information contained in the ARMIS 43-01 Report provides the necessary detail to enable the Commission to fulfill its regulatory responsibilities. Obligation to respond: Mandatory.

OMB Control No.: 3060-0763.

Expiration Date: 4/30/2005.

Title: ARMIS Customer Satisfaction Report.

Form No.: FCC Report 43-06.

Respondents: Business or other for-profit.

Estimated Annual Burden: 8 respondents; 720 hours per response (avg.); 5760 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Frequency of Response: Annually.

Description: Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), authorizes the Commission by a general or special orders to require any carriers subject to this Act to file annual reports concerning any matters with respect to which the Commission is authorized or required by law to act. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS 43-06 Report reflects the results of customer satisfaction surveys conducted by individual carriers from residential and business customers. The ARMIS 43-06 Report captures trends in service quality. The information contained in the ARMIS 43-06 Report provides the necessary detail to enable this Commission to capture trends in service quality. Obligation to respond: Mandatory.

OMB Control No.: 3060-0496.

Expiration Date: 4/30/2005.

Title: ARMIS Operating Data Report.

Form No.: FCC Report 43-08.

Respondents: Business or other for-profit.

Estimated Annual Burden: 50 respondents; 160 hours per response (avg.); 8000 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Frequency of Response: Annually.

Description: Section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), authorizes the Commission by a general or special orders to require any carriers subject to this Act to file annual reports concerning any matters with respect to which the Commission is authorized or required by law to act. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS 43-08 Report collects network-operating data in a consistent format. The ARMIS 43-08 Report monitors network growth, usage, and reliability. The information contained in the ARMIS 43-08 Report provides the necessary detail to enable this Commission to fulfill its regulatory responsibilities. Obligation to respond: Mandatory.

OMB Control No.: 3060-0972.

Expiration Date: 09/30/2002.

Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 5461 respondents; 5.23 hours per response (avg.); 28,571 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$228,000.

Frequency of Response: On occasion; Quarterly; Annually; One-time; Third Party Disclosure.

Description: In the First Order on Reconsideration in CC Docket No. 00-256, Twenty-fourth Order on Reconsideration in CC Docket No. 96-45 (Order on Reconsideration), released March 22, 2002 (FCC 02-89), the Commission modified on its own

motion the data collection and filing procedures for implementation of the Interstate Common Line Support Mechanism (ICLS), in order to ensure timely implementation of the ICLS mechanism on July 1, 2002 as adopted in the Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166 (MAG Order), released November 8, 2001 (FCC 01-304). The Commission extends until April 18, 2002 the original March 31, 2002, deadline set forth in 47 CFR 54.903(a) for the submission of projected data and line counts to USAC. The Commission modifies the requirement under 47 CFR 54.903(a) that each carrier file its data with USAC in order to permit NECA to file the data for each member of the NECA common line pool for the purpose of this initial ICLS filing deadline. If a pooling carrier prefers to file its own data or designate an agent other than NECA to file its data, it may do so at its option. A carrier that does not participate in NECA's common line pool must file its own data or designate an agent to do so. In order to ensure the accuracy and reliability of the data used to calculate support, the Commission requires certain certifications from parties filing data with USAC. The Commission specifies the data to be submitted for the initial ICLS filing under 47 CFR 54.903(a). a. Projected Revenue Requirements. For the initial April 18, 2002 data submission, the Commission requires only projected data required identified in 47 CFR 54.901(a). The initial filing shall therefore include the following data for each eligible rate-of-return carrier: (1) Projected common line revenue requirement; (2) projected SLC revenues; (3) projected revenue from its transitional CCL charge; (4) projected special access surcharges; (5) projected line port costs in excess of basic analog service; and (6) projected LTS. See Order on Reconsideration. (No. of respondents: 37 carriers and NECA; hours per response: 2 hours for carriers and 90 hours for NECA; total annual burden: 164 hours). b(1). Line Counts. The Commission clarifies that the line count data that must be submitted on April 18, 2002, pursuant to 47 CFR 54.903(a), shall include line count data for each study area by customer class (single-line business/residential and multi-line business), but need not include line counts by disaggregation zone. Carriers must file disaggregated line count data on the July 31 annual line count filing. See Order on

Reconsideration. (No. of respondents: 17 carriers and NECA; hours per response: 1 hour for carriers and 30 hours for NECA; total annual burden: 47 hours). The following collections were not modified by the Commission's recent Order on Reconsideration. b(2). Line Counts (Support in Competitive Study Areas): Competitive eligible telecommunications carriers will file their line counts, by disaggregation zone and customer class on a quarterly basis, in accordance with the schedule in section 54.307 of our rules. (No. of respondents: 10; hours per response: 6 hours; total annual burden: 60 hours). c. True Ups: Beginning July 31, 2003, and annually thereafter, rate-of-return carriers will be required to submit actual interstate common line cost data to the Administrator for the preceding calendar year. The first date for filing actual cost data shall be July 31, 2003. (No. of respondents: 769; hours per response: 4 hours; total annual burden: 3076 hours). In order to provide rate-of-return carriers with opportunities to true up support amounts on a more frequent basis, carriers will be permitted to file updated cost data with USAC on a quarterly basis. Carriers wishing to submit cost data on a quarterly basis will file such data in accordance with the schedule provided in section 36.612 of the rules. (No. of respondents: 100; hours per response: 2 hours; total annual burden: 200 hours). d. Disaggregation Plans: Consistent with section 254 of the Act, the Commission concluded in the MAG Order that the plan for the geographic disaggregation and targeting of portable high-cost universal service support below the study area level recently adopted in the Rural Task Force Order will also apply to Interstate Common Line Support. To ensure the portability and predictability of support, rate-of-return carriers that elect to disaggregate and target support will be required to submit maps to the Administrator in which the boundaries of the designated disaggregation zones are clearly specified. The Administrator will make such maps available for public inspection by competitors and other interested parties. When submitting information in support of Path Three self-certification, incumbent carriers must provide the Administrator with publicly available information that allows competitors to verify and reproduce the algorithm used to determine zone support levels (Self-Certification of Disaggregation Plan). Similarly, carriers electing Path One must submit to the Administrator a copy of certifications to a state commission or appropriate regulatory authority that

they will not disaggregate and target support (Notification to State of Change in Disaggregation Methodology). Carriers selecting Path Two must submit a copy to the Administrator of the order by the state commission or appropriate regulatory authority approving the disaggregation plan submitted, along with a copy of the disaggregation plan itself (Targeting Plan to State). In the MAG Order, the Commission extended until May 15, 2002, the date by which carriers will be required to select a disaggregation path for high-cost loop, LTS, LSS, and Interstate Common Line Support mechanisms. (No. of respondents: 100; hours per response: 1 hour; total annual burden 100 hours) e. Section 254(e) Certifications: Section 254(e) provides that a carrier receiving universal service support must use that support "only for the provision, maintenance, and upgrading of facilities and service for which the support is intended." To ensure that carriers receiving Interstate Common Line Support and LTS will use that support in a manner consistent with section 254(e), the Commission shall require carriers seeking such support to file a certification with the Commission and the Administrator. This certification requirement will be applicable to rate-of-return carriers and eligible telecommunications carriers seeking support from our Interstate Common Line Support mechanism. The certification shall be filed with the Commission and the Administrator on March 31, 2002. Such certification shall be filed in CC Docket No. 96-45 annually thereafter on June 30th. The certification may be filed in the form of a letter and must state that the carrier will use its Interstate Common Line Support and LTS only for the provision, maintenance, and upgrading of facilities and service for which support is intended. (No. of respondents: 1300; hours per response: 2 hours; total annual burden: 2600 hours). f. Required tariff filings: All rate-of-return carriers are required to modify their access tariffs to comply with the new Subscriber Line Charge (SLC) caps, to become effective on January 1, 2002, and on July 1, 2002, and July 1, 2003 subject to a cost review study for price cap carriers. Rate-of-return carriers also must file tariffs to recover through a separate end-user charge the costs of ISDN line ports and line ports associated with other services that exceed the costs of a line port used for basic analog service. (No. of respondents: 116; hours per response: 69.9 hours (avg.); total annual burden: 8110 hours). g. Optional Line Port Cost

Study: Rate-of-return carriers may use 30 percent of local switching costs as a proxy in shifting line port costs to the common line category, or may conduct a cost study based on geographically-averaged costs to be submitted in support of the tariff filing relying on the cost study. A carrier may rely on a cost study for subsequent tariff filings. (No. of respondents: 12; hours per response 40 hours; total annual burden: 480 hours). h. Establishment of TIC Caps: NECA is required to establish for carriers that participated in the NECA pool during the tariff year ending June 30, 2001, an individual carrier dollar limit based on its traffic volumes and the TIC rate for the twelve-month period ending on June 30, 2001. Each carrier that was not in the pool during the tariff year ending on June 30, 2001, must determine its TIC limit and report it to NECA for purposes of administering future pool membership changes. (No. of respondents: 1186; hours per response: .13 hours; total annual burden: 2.6 hours). i. Optional tariff filings: Rate-of-return carriers may, at their option, establish the following local switching and transport rate elements: a flat charge for dedicated trunk port costs; a flat charge for the costs of DS1/voice grade multiplexers associated with terminating dedicated trunks at analog switches; a per-minute charge for shared trunk ports and any associated DS1/voice grade multiplexer costs; a flat charge for the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch; individual charges for multiplexer costs associated with tandem switches; and a per-message call setup charge. (No. of respondents: 12; hours per response: 93 hours; total annual burden: 1116 hours). j. GSF allocation: Beginning July 1, 2002, rate-of-return carriers that use general purpose computers to provide non-regulated billing and collection services are required to allocate a portion of their general purpose computer costs to the billing and collection category, which will require them to determine general purpose computer investment. Carriers may use the general purpose computer investment amount they develop for a period of three years. (No. of respondents: 600; hours per response: 20 hours; total annual burden: 12,000 hours).

The Commission will use the information collected to determine whether and to what extent non-price cap or rate-of-return carriers providing the data are eligible to receive universal service support. The Commission will use the tariff data to make sure that rates

are just and reasonable, as required by section 201(b) of the Act. Obligation to respond: Mandatory. Public reporting burdens for the collections of information are as noted above. Send comments regarding the burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02-8844 Filed 4-11-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Certification of Compliance with Mandatory Bars to Employment.

OMB Number: 3064-0121.

Annual Burden

Estimated annual number of respondents: 248.

Estimated time per response: 10 minutes.

Average annual burden hours: 41.34 hours.

Expiration Date of OMB Clearance: May 31, 2002.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898-7453, Office of the Executive Secretary, Room F-4058, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before

May 13, 2002 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Prior to an offer of employment, job applicants to the FDIC must sign a certification that they have not been convicted of a felony or been in other circumstances that prohibit persons from becoming employed by or providing services to the FDIC.

Dated: April 8, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02-8855 Filed 4-11-02; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:07 a.m. on Tuesday, April 9, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), and concurred in by Director John M. Reich (Appointive), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: April 10, 2002.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 02-9100 Filed 4-10-02; 2:36 pm]

BILLING CODE 671401M

FEDERAL HOUSING FINANCE BOARD

[No. 2002-N-3]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2002-03 first quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the 2002-03 first quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before May 31, 2002.

ADDRESSES: Bank members selected for the 2002-03 first quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Office of Policy, Research and Analysis, Program Assistance Division, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or by electronic mail at FITZGERALDE@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Policy, Research and Analysis, Program Assistance Division, by telephone at 202/408-2874, by electronic mail at FITZGERALDE@FHFB.GOV, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at 202/408-2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate

regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 et seq., and record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the May 31, 2002 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before April 26, 2002, each Bank will notify the members in its district that have been selected for the 2002-03 first quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2002-03 first

quarter community support review
cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
The Canaan National Bank	Canaan	Connecticut.
Advest Bank and Trust Company	Hartford	Connecticut.
Litchfield Bancorp	Litchfield	Connecticut.
The Milford Bank	Milford	Connecticut.
NewMil Bank	New Milford	Connecticut.
Prime Bank	Orange	Connecticut.
National Iron Bank	Salisbury	Connecticut.
The First National Bank of Suffield	Suffield	Connecticut.
Savings Institute	Willimantic	Connecticut.
Mechanics Savings Bank	Auburn	Maine.
Pepperell Bank & Trust	Biddeford	Maine.
Oxford Federal Credit Union	Mexico	Maine.
Adams Co-operative Bank	Adams	Massachusetts.
Beverly Co-operative Bank	Beverly	Massachusetts.
Capital Crossing Bank	Boston	Massachusetts.
Wainwright Bank & Trust	Boston	Massachusetts.
Brookline Cooperative Bank	Brookline	Massachusetts.
Chelsea-Provident Co-operative Bank	Chelsea	Massachusetts.
East Boston Savings Bank	East Boston	Massachusetts.
East Bridgewater Savings Bank	East Bridgewater	Massachusetts.
Fall River Five Cents Savings Bank	Fall River	Massachusetts.
The First National Bank of Ipswich	Ipswich	Massachusetts.
Marlborough Co-operative Bank	Marlborough	Massachusetts.
Century Bank & Trust Company	Medford	Massachusetts.
Needham Co-operative Bank	Needham	Massachusetts.
Hoosac Bank	North Adams	Massachusetts.
North Brookfield Savings Bank	North Brookfield	Massachusetts.
Easton Cooperative Bank	North Easton	Massachusetts.
Cape Cod Five Cents Savings Bank	Orleans	Massachusetts.
Massachusetts Cooperative Bank	Quincy	Massachusetts.
Rockland Trust Company	Rockland	Massachusetts.
Cape Cod Bank and Trust Company, N.A.	South Yarmouth	Massachusetts.
Chart Bank, A Cooperative Bank	Waltham	Massachusetts.
Westbank	West Springfield	Massachusetts.
UniBank for Savings	Whitinsville	Massachusetts.
Williamstown Savings Bank	Williamstown	Massachusetts.
St. Mary's Bank	Manchester	New Hampshire.
Community Guaranty Savings Bank	Plymouth	New Hampshire.
Community Bank & Trust Company	Wolfeboro	New Hampshire.
Coventry Credit Union	Coventry	Rhode Island.
Domestic Bank, FSB	Cranston	Rhode Island.
Bank Rhode Island	Providence	Rhode Island.
Home Loan and Investment Bank, FSB	Warwick	Rhode Island.
Citizens Savings Bank & Trust Company	St. Johnsbury	Vermont.

Federal Home Loan Bank of New York—District 2

UnitedTrustBank	Bridgewater	New Jersey.
Morgan Stanley Trust	Jersey City	New Jersey.
The Provident Bank	Jersey City	New Jersey.
Hudson United Bank	Mahwah	New Jersey.
Atlantic Stewardship Bank	Midland Park	New Jersey.
First Morris Bank	Morris Township	New Jersey.
City National Bank of New Jersey	Newark	New Jersey.
Bergen Commercial Bank	Paramus	New Jersey.
Vista Bank, NA	Phillipsburg	New Jersey.
Mon-Oc Federal Credit Union	Toms River	New Jersey.
Yardville National Bank	Trenton	New Jersey.
Hamilton Savings Bank	Union City	New Jersey.
First Washington State Bank	Windsor	New Jersey.
The Bank of Gloucester County	Woodbury	New Jersey.
The Canandaigua National Bank and Trust Company	Canandaigua	New York.
Country Bank	Carmel	New York.
Chemung Canal Trust Company	Elmira	New York.
National Bank of New York City	Flushing	New York.
New York Community Bank	Flushing	New York.
Hudson River Bank & Trust Company	Hudson	New York.
Long Island Commercial Bank	Islandia	New York.
Rondout Savings Bank	Kingston	New York.

Member	City	State
First Niagara Bank	Lockport	New York.
State Bank of Long Island	New Hyde Park	New York.
Eastbank, N.A.	New York	New York.
PathFinder Bank	Oswego	New York.
The Pavilion State Bank	Pavilion	New York.
Rhinebeck Savings Bank	Rhinebeck	New York.
Tioga State Bank	Spencer	New York.
ESL Federal Credit Union	Rochester	New York.
The Tupper Lake National Bank	Tupper Lake	New York.
The Warwick Savings Bank	Warwick	New York.
Banco Santander Puerto Rico	San Juan	Puerto Rico.

Federal Home Loan Bank of Pittsburgh—District 3

County Bank	Rehoboth Beach	Delaware.
Cheltenham Savings Bank	Abington	Pennsylvania.
County National Bank	Clearfield	Pennsylvania.
Citizens Trust Company	Coudersport	Pennsylvania.
Downington National Bank	Downington	Pennsylvania.
Farmers National Bank of Emlenton	Emlenton	Pennsylvania.
First American Bank of Pennsylvania	Everett	Pennsylvania.
Southwest Bank	Greensburg	Pennsylvania.
Harleysville Savings Bank	Harleysville	Pennsylvania.
First National Bank of Pennsylvania	Hermitage	Pennsylvania.
Wayne Bank	Honesdale	Pennsylvania.
The Honesdale National Bank	Honesdale	Pennsylvania.
AmeriServ Financial	Johnstown	Pennsylvania.
Lebanon Valley Farmers Bank	Lebanon	Pennsylvania.
Luzerne National Bank	Luzerne	Pennsylvania.
Marion Center National Bank	Marion Center	Pennsylvania.
Old Forge Bank	Old Forge	Pennsylvania.
Northwood Savings Association	Philadelphia	Pennsylvania.
First National Bank of Port Allegany	Port Allegany	Pennsylvania.
Kishacoquillas Valley National Bank	Reedsville	Pennsylvania.
Community First Bank, N.A.	Reynoldsville	Pennsylvania.
Farmers Building & Savings Bank	Rochester	Pennsylvania.
Hamlin Bank and Trust Company	Smethport	Pennsylvania.
Eagle National Bank	Upper Darby	Pennsylvania.
Bruceton Bank	Bruceton Mills	West Virginia.
Mountain Valley Bank, N.A.	Elkins	West Virginia.
Calhoun County Bank	Grantsville	West Virginia.
Harrison County Bank	Lost Creek	West Virginia.
The Grant County Bank	Petersburg	West Virginia.
Union Bank of Tyler County	Sistersville	West Virginia.
First National Bank	St. Marys	West Virginia.
The Terra Alta Bank	Terra Alta	West Virginia.

Federal Home Loan Bank of Atlanta—District 4

Frontier National Bank	Sylacauga	Alabama.
The Bank of Tuscaloosa	Tuscaloosa	Alabama.
The Citizens Bank of Winfield	Winfield	Alabama.
Adams National Bank	Washington	DC.
1st National Bank & Trust	Bradenton	Florida.
American Bank	Bradenton	Florida.
The Hernando County Bank	Brooksville	Florida.
Drummond Community Bank	Chiefland	Florida.
Crystal River Bank	Crystal River	Florida.
First National Bank of Pasco	Dade City	Florida.
BankFIRST	Eustis	Florida.
Community Bank of Florida	Homestead	Florida.
First National Bank of South Florida	Homestead	Florida.
Marine Bank of the Florida Keys	Marathon	Florida.
First National Bank of the Florida Keys	Marathon	Florida.
Fidelity Bank of Florida	Merritt Island	Florida.
Coconut Grove Bank	Miami	Florida.
The International Bank	Miami	Florida.
Peoples National Bank	Niceville	Florida.
Peoples National Bank	Niceville	Florida.
Security Bank, N.A.	North Lauderdale	Florida.
Enterprise National Bank of Palm Beach	North Palm Beach	Florida.
Independent National Bank	Ocala	Florida.
First State Bank	Sarasota	Florida.
Prosperity Bank of St. Augustine	St. Augustine	Florida.

Member	City	State
Republic Bank	St. Petersburg	Florida.
United Bank and Trust Company	St. Petersburg	Florida.
Guaranty National Bank of Tallahassee	Tallahassee	Florida.
Premier Bank	Tallahassee	Florida.
Tri-County Bank	Trenton	Florida.
Citrus Bank, N.A.	Vero Beach	Florida.
First National Bank of Wauchula	Wauchula	Florida.
Adel Banking Company	Adel	Georgia.
Alma Exchange Bank and Trust	Alma	Georgia.
FNB South	Alma	Georgia.
NetBank	Alpharetta	Georgia.
Citizens Bank of Americus	Americus	Georgia.
Athens First Bank and Trust Company	Athens	Georgia.
Fidelity National Bank	Atlanta	Georgia.
The Bankers Bank	Atlanta	Georgia.
First Community Bank of Southwest Georgia	Bainbridge	Georgia.
Cairo Banking Company	Cairo	Georgia.
Georgia Bank & Trust	Calhoun	Georgia.
Community First Bank	Carrollton	Georgia.
Nbank	Commerce	Georgia.
Community Bank and Trust	Cornelia	Georgia.
Merchants and Farmers Bank	Donalsonville	Georgia.
Bank of Dudley	Dudley	Georgia.
Citizens Bank and Trust Company	Eastman	Georgia.
Bank of Ellaville	Ellaville	Georgia.
First National Bank of Griffin	Griffin	Georgia.
McIntosh State Bank	Jackson	Georgia.
The First National Bank	Louisville	Georgia.
Bank of Madison	Madison	Georgia.
Exchange Bank	Milledgeville	Georgia.
Bank of Monticello	Monticello	Georgia.
American Banking Company	Moultrie	Georgia.
Heritage Community Bank	Quitman	Georgia.
The Tattnall Bank	Reidsville	Georgia.
Bryan Bank and Trust	Richmond Hill	Georgia.
Northwest Georgia Bank	Ringgold	Georgia.
Rossville Bank	Rossville	Georgia.
West Central Georgia Bank	Thomaston	Georgia.
First National Bank of Cherokee	Woodstock	Georgia.
Allfirst Bank	Baltimore	Maryland.
Carrollton Bank	Baltimore	Maryland.
FBR National Bank & Trust	Bethesda	Maryland.
Glen Burnie Mutual Savings Bank	Glen Burnie	Maryland.
Hebron Savings Bank	Hebron	Maryland.
First Financial of Maryland FCU	Lutherville	Maryland.
Regal Bank & Trust	Owings Mills	Maryland.
Provident State Bank of Preston	Preston	Maryland.
The Queenstown Bank of Maryland	Queenstown	Maryland.
Blue Ridge Savings Bank, Inc.	Asheville	North Carolina.
Morris Plan Bank	Burlington	North Carolina.
Park Meridian Bank	Charlotte	North Carolina.
Yadkin Valley Bank and Trust Company	Elkin	North Carolina.
The Fidelity Bank	Fuquay-Varina	North Carolina.
Bank of Granite	Granite Falls	North Carolina.
Peoples Bank	Newton	North Carolina.
FNB Southeast	Reidsville	North Carolina.
Wake Forest Federal S&L Association	Wake Forest	North Carolina.
BB & T of NC	Wilson	North Carolina.
First Federal Savings and Loan Association	Charleston	South Carolina.
First Piedmont F&SL Association of Gaffney	Gaffney	South Carolina.
Horry County State Bank	Loris	South Carolina.
Orangeburg National Bank	Orangeburg	South Carolina.
The Old Point National Bank of Phoebus	Hampton	Virginia.
Chesapeake Bank	Kilmarnock	Virginia.
Community Bank of Northern Virginia	Sterling	Virginia.
Citizens and Farmers Bank	West Point	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

Bank of Clinton County, Inc.	Albany	Kentucky.
Citizens Deposit Bank of Arlington, Inc.	Arlington	Kentucky.
Classic Bank	Ashland	Kentucky.
Peoples B&TC of Madison County	Berea	Kentucky.
Citizens Bank	Brodhead	Kentucky.

Member	City	State
Deposit Bank of Carlisle	Carlisle	Kentucky.
Peoples State Bank	Chaplin	Kentucky.
Tri-County National Bank	Corbin	Kentucky.
The Farmers National Bank of Danville	Danville	Kentucky.
Dixon Bank	Dixon	Kentucky.
First Citizens Bank	Elizabethtown	Kentucky.
Farmers Bank and Capital Trust Company, Inc	Frankfort	Kentucky.
Franklin Bank & Trust Company	Franklin	Kentucky.
First National Bank & Trust Company	Georgetown	Kentucky.
The Farmers Bank and Trust Company	Georgetown	Kentucky.
The Peoples State Bank	Hodgenville	Kentucky.
United Southern Bank	Hopkinsville	Kentucky.
Kentucky Banking Centers	Horse Cave	Kentucky.
First Federal Bank	Lexington	Kentucky.
Republic Bank and Trust Company	Louisville	Kentucky.
The First National Bank of Mayfield	Mayfield	Kentucky.
Jackson County Bank	McKee	Kentucky.
The Farmers Bank of Milton	Milton	Kentucky.
Morehead National Bank	Morehead	Kentucky.
Peoples Bank & Trust Company	Owenton	Kentucky.
Springfield State Bank	Springfield	Kentucky.
Deposit Bank of Monroe	Tompkinsville	Kentucky.
Peoples Bank of Tompkinsville	Tompkinsville	Kentucky.
Citizens Deposit Bank & Trust	Vanceburg	Kentucky.
The Apple Creek Banking Company	Apple Creek	Ohio.
The First National Bank of Bellevue	Bellevue	Ohio.
Community First Bank and Trust	Celina	Ohio.
The Clyde Savings Bank Company	Clyde	Ohio.
The Community Bank	Crooksville	Ohio.
Dover-Phila Federal Credit Union	Dover	Ohio.
First Federal Savings Bank	Dover	Ohio.
First National Community Bank	East Liverpool	Ohio.
The Peoples Bank Inc.	Gambier	Ohio.
The Genoa Banking Company	Genoa	Ohio.
The Richland Trust Company	Mansfield	Ohio.
The Metamora State Bank	Metamora	Ohio.
Consumers National Bank	Minerva	Ohio.
The Henry County Bank	Napoleon	Ohio.
Home FS&LA of Niles	Niles	Ohio.
The Osgood State Bank	Osgood	Ohio.
Somerville National Bank	Somerville	Ohio.
Champaign National Bank and Trust	Urbana	Ohio.
First National Bank of Zanesville	Zanesville	Ohio.
Bank of Cleveland	Cleveland	Tennessee.
First Farmers and Merchants National Bank	Columbia	Tennessee.
Citizens Tri-County Bank	Dunlap	Tennessee.
Citizens Bank	Elizabethton	Tennessee.
Erwin National Bank	Erwin	Tennessee.
Andrew Johnson Bank	Greeneville	Tennessee.
City State Bank	Martin	Tennessee.
Union Planters Bank of the Lakeway Area	Morristown	Tennessee.
Capital Bank & Trust Company	Nashville	Tennessee.
The Bank of Nashville	Nashville	Tennessee.
The Oakland Deposit Bank	Oakland	Tennessee.
Farmers Bank	Parsons	Tennessee.
First National Bank of Pulaski	Pulaski	Tennessee.
First Century Bank	Tazewell	Tennessee.

Federal Home Loan Bank of Indianapolis—District 6

Community State Bank	Avilla	Indiana.
Bath State Bank	Bath	Indiana.
First State Bank of Berne	Berne	Indiana.
Monroe County Bank	Bloomington	Indiana.
The Farmers & Merchants Bank	Boswell	Indiana.
The Farmer State Bank	Brookston	Indiana.
People's Trust Company	Brookville	Indiana.
Irwin Union Bank	Columbus	Indiana.
Fountain Trust Company	Covington	Indiana.
DeMotte State Bank	DeMotte	Indiana.
Peoples State Bank of Ellettsville	Ellettsville	Indiana.
Integra Bank	Evansville	Indiana.
Bank of Geneva	Geneva	Indiana.
Mercantile National Bank of Indiana	Hammond	Indiana.

Member	City	State
Bippus State Bank	Huntington	Indiana.
Meridian Security Insurance Company	Indianapolis	Indiana.
National City Bank of Indiana	Indianapolis	Indiana.
Salin Bank & Trust Company	Indianapolis	Indiana.
The National Bank of Indianapolis	Indianapolis	Indiana.
Kentland Bank	Kentland	Indiana.
Farmers State Bank	Lanesville	Indiana.
American State Bank	Lawrenceburg	Indiana.
Peoples Trust Company	Linton	Indiana.
Independence Bank	New Albany	Indiana.
Indiana Lawrence Bank	North Manchester	Indiana.
First National Bank of Portland	Portland	Indiana.
The Morris Plan Company of Terre Haute, Inc.	Terre Haute	Indiana.
Lake City Bank	Warsaw	Indiana.
Peoples Loan & Trust Bank	Winchester	Indiana.
Alden State Bank	Alden	Michigan.
Midwest Financial Credit Union	Ann Arbor	Michigan.
Home Federal Savings Bank	Detroit	Michigan.
First National Bank of Michigan	East Lansing	Michigan.
The State Bank of Fenton	Fenton	Michigan.
Dort Federal Credit Union	Flint	Michigan.
First Bank, Upper Michigan, NA	Gladstone	Michigan.
United Bank of Michigan	Grand Rapids	Michigan.
MFC First National Bank	Houghton	Michigan.
MFC First National Bank	Iron Mountain	Michigan.
MFC First National Bank	Iron River	Michigan.
Lansing Automakers	Lansing	Michigan.
Farmers State Bank of Munith	Munith	Michigan.
Royal Oakland Community Credit Union	Royal Oak	Michigan.
North Country Bank	Traverse City	Michigan.

Federal Home Loan Bank of Chicago—District 7

Anchor State Bank	Anchor	Illinois.
State Bank of Auburn	Auburn	Illinois.
First State Bank of Beardstown	Beardstown	Illinois.
Germantown Trust and Savings Bank	Breese	Illinois.
The Bank of Carbondale	Carbondale	Illinois.
Highland Community Bank	Chicago	Illinois.
Uptown National Bank of Chicago	Chicago	Illinois.
Home State Bank/National Association	Crystal Lake	Illinois.
Farmers State Bank of Danforth	Danforth	Illinois.
Durand State Bank	Durand	Illinois.
First Community Bank	Elgin	Illinois.
Standard Bank and Trust Company	Evergreen Park	Illinois.
First Eagle National Bank	Hanover Park	Illinois.
Bank of Calhoun County	Hardin	Illinois.
The State Bank of Jerseyville	Jerseyville	Illinois.
First National Bank of Lacon	Lacon	Illinois.
The Farmers Bank of Liberty	Liberty	Illinois.
Banterra Bank	Marion	Illinois.
Maroa Forsyth Community Bank	Maroa	Illinois.
First Mid-Illinois Bank & Trust	Mattoon	Illinois.
First State Bank	Mendota	Illinois.
Citizens State Bank of Milford	Milford	Illinois.
Brown County State Bank	Mount Sterling	Illinois.
BankOrion	Orion	Illinois.
The Citizens National Bank of Paris	Paris	Illinois.
South Side Trust & Savings Bank	Peoria	Illinois.
Bank of Pontiac	Pontiac	Illinois.
Princeville State Bank	Princeville	Illinois.
The Farmers National Bank of Prophetstown	Prophetstown	Illinois.
Lakeland Community Bank	Round Lake Heights	Illinois.
Marion County Savings Bank	Salem	Illinois.
The National Bank	Savanna	Illinois.
Bank of Springfield	Springfield	Illinois.
First Community State Bank	Staunton	Illinois.
First National Bank in Taylorville	Taylorville	Illinois.
First National Bank of Waterloo	Waterloo	Illinois.
Williamsville State Bank and Trust	Williamsville	Illinois.
Hinsbrook Bank and Trust	Willowbrook	Illinois.
The Baraboo National Bank	Baraboo	Wisconsin.
Union Bank of Blair	Blair	Wisconsin.
Great Midwest Bank, S.S.B.	Brookfield	Wisconsin.

Member	City	State
First National Bank of Eagle River	Eagle River	Wisconsin.
Royal Bank	Elroy	Wisconsin.
State Bank of Florence	Florence	Wisconsin.
Bank of Galesville	Galesville	Wisconsin.
First National Bank of Hartford	Hartford	Wisconsin.
Coulee State Bank	La Crosse	Wisconsin.
Citizens State Bank of Loyal	Loyal	Wisconsin.
Bank of Luxemburg	Luxemburg	Wisconsin.
First Business Bank	Madison	Wisconsin.
Columbia Savings and Loan Association	Milwaukee	Wisconsin.
Citizens Bank of Mukwonago	Mukwonago	Wisconsin.
First State Bank	New London	Wisconsin.
S&C Bank	New Richmond	Wisconsin.
First Bank Financial Centre	Oconomowoc	Wisconsin.
Community Bank of Oconto County	Oconto Falls	Wisconsin.
River Valley State Bank	Rothschild	Wisconsin.
River Bank	Stoddard	Wisconsin.
Community Bank	Superior	Wisconsin.
Bank of Verona	Verona	Wisconsin.
Marathon Savings Bank	Wausau	Wisconsin.
Bank North	Wausaukee	Wisconsin.

Federal Home Loan Bank of Des Moines—District 8

Liberty Bank, F.S.B.	Arnolds Park	Iowa.
Citizens Bank & Trust	Belle Plaine	Iowa.
City State Bank	Central City	Iowa.
Midwest Heritage Bank FSB	Chariton	Iowa.
Iowa State Bank	Des Moines	Iowa.
Peoples Savings Bank	Elma	Iowa.
Lee County Bank & Trust, NA	Fort Madison	Iowa.
Grinnell State Bank	Grinnell	Iowa.
Security State Bank	Independence	Iowa.
Community First Bank	Keosauqua	Iowa.
Great River Bank and Trust	LeClaire	Iowa.
Pleasantville State Bank	Pleasantville	Iowa.
First Federal Bank	Sioux City	Iowa.
Northeast Security Bank	Sumner	Iowa.
Farmers & Merchants Savings Bank	Waukon	Iowa.
Earlham Savings Bank	West Des Moines	Iowa.
Farmers Savings Bank	West Union	Iowa.
First Trust and Savings Bank	Wheatland	Iowa.
North American State Bank	Belgrade	Minnesota.
Bremer Bank National Association	Brainerd	Minnesota.
Stearns Bank Canby, N.A.	Canby	Minnesota.
First National Bank of Chaska	Chaska	Minnesota.
Republic Bank, Inc.	Duluth	Minnesota.
Valley Bank—Dundas	Dundas	Minnesota.
Bremer Bank National Association	International Falls	Minnesota.
Security State Bank of Lewiston	Lewiston	Minnesota.
Minnwest Bank Luverne	Luverne	Minnesota.
Premier Bank	Maplewood	Minnesota.
Security State Bank of Marine	Marine on St. Croix	Minnesota.
Bremer Bank National Association	Marshall	Minnesota.
Franklin National Bank	Minneapolis	Minnesota.
Northeast Bank	Minneapolis	Minnesota.
First Minnetonka City Bank	Minnetonka	Minnesota.
Minnwest Bank Central	Montevideo	Minnesota.
Farmers State Bank	New London	Minnesota.
United Community Bank	Perham	Minnesota.
Farmers & Merchants State Bank	Pierz	Minnesota.
The Security State Bank of Pine Island	Pine Island	Minnesota.
First National Bank and Trust	Pipestone	Minnesota.
State Bank of Richmond	Richmond	Minnesota.
Minnesota First Credit and Savings	Rochester	Minnesota.
Pine Country Bank	Royalton	Minnesota.
Beacon Bank	Shorewood	Minnesota.
Bremer Bank National Association	South St. Paul	Minnesota.
Farmers & Merchants State Bank	Springfield	Minnesota.
Liberty Savings Bank, fsb	St. Cloud	Minnesota.
Highland Bank	St. Michael	Minnesota.
Capital Bank	St. Paul	Minnesota.
First Integrity Bank, NA	Staples	Minnesota.
Central Bank	Stillwater	Minnesota.

Member	City	State
Northern State Bank of Thief River Falls, MN	Thief River Falls	Minnesota.
Community Bank Vernon Center	Vernon Center	Minnesota.
Paragon Bank	Wells	Minnesota.
State Bank of Wheaton	Wheaton	Minnesota.
Bremer Bank National Association	Willmar	Minnesota.
Town & Country State Bank of Winona	Winona	Minnesota.
Bank of Advance	Advance	Missouri.
Community First Bank of Missouri	Booneville	Missouri.
Carroll County S&L Association	Carrollton	Missouri.
Enterprise Bank	Clayton	Missouri.
Bank of Crocker	Crocker	Missouri.
First Midwest Bank of Dexter	Dexter	Missouri.
Farmers & Merchants Bank of Hale	Hale	Missouri.
Farmers & Commercial Bank	Holden	Missouri.
Exchange National Bank of Jefferson City	Jefferson City	Missouri.
Midwest Independent Bank	Jefferson City	Missouri.
Bank Midwest, N.A.	Kansas City	Missouri.
Union Bank	Kansas City	Missouri.
First Community Bank	Knob Noster	Missouri.
First Community Bank, Missouri	Malden	Missouri.
Martinsburg Bank and Trust	Martinsburg	Missouri.
Central Bank of Lake of the Ozarks	Osage Beach	Missouri.
First Midwest Bank of Poplar Bluff	Poplar Bluff	Missouri.
Citizens Bank of Princeton	Princeton	Missouri.
Bank of Rothville	Rothville	Missouri.
Anheuser-Busch Employees' Credit Union	St. Louis	Missouri.
Citizens National Bank of Greater St. Louis	St. Louis	Missouri.
Jefferson Bank and Trust Company	St. Louis	Missouri.
St. Louis Postal Credit Union	St. Louis	Missouri.
First Community National Bank	Steelville	Missouri.
American Sterling Bank	Sugar Creek	Missouri.
Bank of Sullivan	Sullivan	Missouri.
First Midwest Bank of Carter County	Van Buren	Missouri.
West Plains Bank & Trust Company	West Plains	Missouri.
Bank of Weston	Weston	Missouri.
Bank Center First	Bismarck	North Dakota.
Bank of North Dakota	Bismarck	North Dakota.
CountryBank, USA	Cando	North Dakota.
Security First Bank of North Dakota	Center	North Dakota.
Choice Financial Group	Grafton	North Dakota.
Bremer Bank National Association	Minot	North Dakota.
American State Bank & Trust Co. of Williston	Williston	North Dakota.
Hand County State Bank	Miller	South Dakota.
First National Bank	Pierre	South Dakota.
Rushmore Bank & Trust	Rapid City	South Dakota.
The First National Bank in Sioux Falls	Sioux Falls	South Dakota.

Federal Home Loan Bank of Dallas—District 9

Union Bank of Benton	Benton	Arkansas.
The First National Bank of Berryville	Berryville	Arkansas.
First Community Bank	Conway	Arkansas.
First National Bank	De Queen	Arkansas.
The First National Bank of DeWitt	DeWitt	Arkansas.
Bank of England	England	Arkansas.
First National Bank	Glenwood	Arkansas.
First National Bank in Green Forest	Green Forest	Arkansas.
Helena National Bank	Helena	Arkansas.
Commercial Bank & Trust	Monticello	Arkansas.
First National Bank and Trust Co. of Mountain Home	Mountain Home	Arkansas.
Perry County Bank	Perryville	Arkansas.
Simmons First National Bank	Pine Bluff	Arkansas.
Bank of Prescott	Prescott	Arkansas.
Merchants and Planters Bank	Sparkman	Arkansas.
First National Bank	Arcadia	Louisiana.
Citizens National Bank of Bossier City	Bossier City	Louisiana.
Parish National Bank	Covington	Louisiana.
Catahoula—LaSalle Bank	Jonesville	Louisiana.
Hibernia National Bank	New Orleans	Louisiana.
Guaranty Bank & Trust Company	New Roads	Louisiana.
Tensas State Bank	Newellton	Louisiana.
Patterson State Bank	Patterson	Louisiana.
Iberville Trust and Savings Bank	Plaquemine	Louisiana.
Rayne State Bank & Trust Company	Rayne	Louisiana.

Member	City	State
Teche Bank & Trust Company	St. Martinville	Louisiana.
Bank of Sunset and Trust Company	Sunset	Louisiana.
Washington State Bank	Washington	Louisiana.
Citizens Bank	Columbia	Mississippi.
Bank of Kilmichael	Kilmichael	Mississippi.
Peoples Bank	Mendenhall	Mississippi.
Bank of Morton	Morton	Mississippi.
Merchants and Planters Bank	Raymond	Mississippi.
First National Bank of Wiggins	Wiggins	Mississippi.
Valley National Bank	Espanola	New Mexico.
Lea County State Bank	Hobbs	New Mexico.
Bank of the Rio Grande	Las Cruces	New Mexico.
White Sands Federal Credit Union	Las Cruces	New Mexico.
Bank of the Southwest	Roswell	New Mexico.
Bank of Texas	Austin	Texas.
The First National Bank of Bryan	Bryan	Texas.
First Bank and Trust of Childress	Childress	Texas.
Founders National Bank	Dallas	Texas.
Southwest Bank of Fort Worth	Fort Worth	Texas.
HomeTown Bank, N.A.	Galveston	Texas.
Gruver State Bank	Gruver	Texas.
First State Bank	Hawkins	Texas.
Hull State Bank	Hull	Texas.
Industry State Bank	Industry	Texas.
The First National Bank of Refugio	Refugio	Texas.

Federal Home Loan Bank of Topeka—District 10.

Cheyenne Mountain Bank	Colorado Springs	Colorado.
Peoples National Bank, N.A.	Colorado Springs	Colorado.
FirstBank of Cherry Creek	Denver	Colorado.
FirstBank of Denver	Denver	Colorado.
The Bank of Cherry Creek, N.A.	Denver	Colorado.
Union Bank & Trust	Denver	Colorado.
Mesa National Bank	Grand Junction	Colorado.
FirstBank of Colorado	Lakewood	Colorado.
FirstBank of South Jeffco	Littleton	Colorado.
Labette County State Bank	Altamont	Kansas.
Union State Bank	Arkansas City	Kansas.
The Baxter State Bank	Baxter Springs	Kansas.
Community Bank	Chapman	Kansas.
First National Bank	Derby	Kansas.
Citizens State Bank	Gridley	Kansas.
Citizens State Bank and Trust Company	Hiawatha	Kansas.
The First National Bank of Hutchinson, Kansas	Hutchinson	Kansas.
Brotherhood Bank & Trust Company	Kansas City	Kansas.
Security National Bank	Manhattan	Kansas.
Peoples Bank & Trust Company	McPherson	Kansas.
First Neodesha Bank	Neodesha	Kansas.
Hillcrest Bank	Overland Park	Kansas.
Grant County Bank	Ulysses	Kansas.
Union State Bank	Uniontown	Kansas.
CornerBank, N.A.	Winfield	Kansas.
Pony Express Community Bank	St. Joseph	Missouri.
Battle Creek State Bank	Battle Creek	Nebraska.
First National Bank	Beemer	Nebraska.
Columbus Bank and Trust Company	Columbus	Nebraska.
Fremont National Bank	Fremont	Nebraska.
Fullerton National Bank	Fullerton	Nebraska.
Thayer County Bank	Hebron	Nebraska.
First National Bank and Trust Company of Kearney	Kearney	Nebraska.
Union Bank & Trust Company	Lincoln	Nebraska.
McCook National Bank	McCook	Nebraska.
Adams Bank & Trust	Ogallala	Nebraska.
First Westroads Bank	Omaha	Nebraska.
Metro Health Services Federal Credit Union	Omaha	Nebraska.
Mutual First Federal Credit Union	Omaha	Nebraska.
Omaha State Bank	Omaha	Nebraska.
First National Bank in Ord	Ord	Nebraska.
First National Bank	Schuyler	Nebraska.
Stanton National Bank	Stanton	Nebraska.
Farmers & Merchants State Bank	Wayne	Nebraska.
Home National Bank	Blackwell	Oklahoma.
American State Bank	Broken Bow	Oklahoma.

Member	City	State
Arvest Bank	Duncan	Oklahoma.
The First National Bank in Durant	Durant	Oklahoma.
First United Bank and Trust Company	Durant	Oklahoma.
Central National Bank & Trust Company	Enid	Oklahoma.
The Farmers and Merchants NB of Fairview	Fairview	Oklahoma.
Security First National Bank	Hugo	Oklahoma.
Landmark Bank Company, N.A	Madill	Oklahoma.
First Fidelity Bank	Oklahoma City	Oklahoma.
Lincoln National Bank	Oklahoma City	Oklahoma.
Southwestern Bank	Oklahoma City	Oklahoma.
Pauls Valley National Bank	Pauls Valley	Oklahoma.
Pioneer Bank & Trust Company	Ponca City	Oklahoma.
First United Bank	Sapulpa	Oklahoma.
First State Bank in Temple	Temple	Oklahoma.
Citizens Bank of Tulsa	Tulsa	Oklahoma.
First Farmers National Bank	Waurika	Oklahoma.

Federal Home Loan Bank of San Francisco—District 11

Johnson Bank Arizona	Phoenix	Arizona.
Wells Fargo Bank Arizona, N.A	Phoenix	Arizona.
First Bank of Beverly Hills, FSB	Calabasas	California.
North State National Bank	Chico	California.
Foothill Independent Bank	Glendora	California.
Imperial Capital Bank	La Jolla	California.
City National Bank	Los Angeles	California.
Gold Country National Bank	Marysville	California.
Addison Avenue Federal Credit Union	Palo Alto	California.
Mid Valley Bank	Red Bluff	California.
North Valley Bank	Redding	California.
The Mechanics Bank	Richmond	California.
The Bank of Hemet	Riverside	California.
Trans Pacific National Bank	San Francisco	California.
Montecito Bank and Trust	Santa Barbara	California.
First Fidelity Investment and Loan	Tustin	California.
Bank of American California, NA	Walnut Creek	California.
Bank of the West	Walnut Creek	California.
First Financial Credit Union	West Covina	California.
Nevada State Bank	Las Vegas	Nevada.

Federal Home Loan Bank of Seattle—District 12

Bank of Hawaii	Honolulu	Hawaii.
D.L. Evans Bank	Burley	Idaho.
Citizens Bank & Trust Company	Big Timber	Montana.
First Interstate Bank	Billings	Montana.
Wells Fargo Bank Wyoming, N.A	Billings	Montana.
Bank of Bridger	Bridger	Montana.
Citizens State Bank of Choteau	Choteau	Montana.
State Bank & Trust Company	Dillon	Montana.
First National Bank of Fairfield	Fairfield	Montana.
First Security Bank of Malta	Malta	Montana.
First Citizens Bank of Polson	Polson	Montana.
First State Bank of Thompson Falls	Thompson Falls	Montana.
Ruby Valley National Bank	Twin Bridges	Montana.
Bank of the Rockies, N.A	White Sulphur Springs	Montana.
Whitefish Credit Union Association	Whitefish	Montana.
O.S.U. Federal Credit Union	Corvallis	Oregon.
The Merchants Bank	Gresham	Oregon.
Community Bank	Joseph	Oregon.
State Employees Credit Union	Salem	Oregon.
Barnes Banking Company	Kaysville	Utah.
Cache Valley Bank	Logan	Utah.
Peoples Bank	Lynden	Washington.
Pend Oreille Bank	Newport	Washington.
Inland Northwest Bank	Spokane	Washington.
Sound Credit Union	Tacoma	Washington.
Clark County School Employees Credit Union	Vancouver	Washington.
Shoshone First Bank	Cody	Wyoming.

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before April 26, 2002, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2002–03 first quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2002–03 first quarter review cycle must be delivered to the Finance Board on or before the May 31, 2002 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.
Dated: March 22, 2002.

James L. Bothwell,
Managing Director.

[FR Doc. 02–7531 Filed 4–11–02; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise

noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 6, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Hometown Community Bancorp, Inc.*, Morton, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Hometown Independent Bancorp, Inc., Morton, Illinois, and thereby indirectly acquire voting shares of Morton Community Bank, Morton, Illinois.

2. *Schaumburg Bancshares, Inc.*, Hinsdale, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Schaumburg Bancorporation, Inc., Schaumburg, Illinois, and thereby indirectly acquire voting shares of Heritage Bank of Schaumburg, Schaumburg, Illinois.

Board of Governors of the Federal Reserve System, April 8, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–8852 Filed 4–11–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 011 0153]

Obstetrics and Gynecology Medical Corporation of Napa Valley, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 6, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600

Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: consentagreement@ftc.gov, as prescribed below.

FOR FURTHER INFORMATION CONTACT:

Sylvia Kundig, FTC Western Regional Office, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 848–5188.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 5, 2002), on the World Wide Web, at "<http://www.ftc.gov/os/2002/index.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC, 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: consentagreement@ftc.gov. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement with Obstetrics & Gynecology Medical Corp. of Napa Valley and its shareholders (collectively "OGMC" or

“proposed respondents”) containing a proposed consent order. The proposed order settles charges that OGM C violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating or implementing agreements among its members to fix prices and other terms of dealing with payors, and to refuse to deal with payors except on collectively-determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the proposed respondents that they violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission’s proposed complaint are summarized below.

Respondent OGM C is a for-profit corporation and a single-specialty independent practice association (“IPA”) composed of virtually all of the OB/GYNs with active medical staff privileges at the two general acute care hospitals in Napa County, California. OGM C’s physicians had been members of Napa Valley Physicians (“NVP”), a multispecialty IPA in Napa County. An IPA is a vehicle through which physicians can contract with health plans to provide services to health plan enrollees. At times, physicians who participate in IPAs share the risk of financial loss with other participants if the total costs of services provided to patients exceed the anticipated volume of service. NVP was such a risk-sharing IPA. As is typical of such IPAs, NVP also provided quality assurance and utilization review.

Beginning in 1998, NVP’s OB/GYNs became dissatisfied with the level and timeliness of reimbursement from NVP. The OB/GYNs resigned from NVP, and then in February 2000, formed OGM C to promote, among other things, their collective economic interests by increasing their negotiating power with

NVP. Prior to the formation of OGM C, and continuing into 2001, these OB/GYNs agreed among themselves to refuse to contract individually with NVP or any health plan. During this time, the OB/GYNs also agreed on the fees they would charge, and to boycott NVP to coerce it to meet their fee demands. As a consequence of the proposed respondents’ conduct, NVP did not have sufficient OB/GYNs to serve adequately the HMO enrollees under NVP’s HMO contracts. NVP ceased doing business in early 2001, and some health plans discontinued providing HMO coverage in Napa County.

OGM C did not engage in any activity that might justify collective agreements on the prices its members would accept for their services. For example, the OB/GYNs have not clinically or financially integrated their practices to create efficiencies sufficient to justify their acts and practices. The proposed respondents’ actions have restrained price and other forms of competition among OB/GYNs in Napa County, California, and thereby harmed consumers (including health plans, employers, and individual consumers) by increasing the prices for physician services.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of the illegal concerted actions alleged in the complaint, while allowing the OB/GYNs to engage in legitimate joint conduct. The core prohibitions of the proposed order are contained in Paragraph II. Paragraph II.A prohibits the proposed respondents from entering into, participating, or facilitating: (1) Any agreement to negotiate on behalf of any physicians with any payor or provider; (2) any agreement to deal or refuse to deal with any payor or provider; or (3) any agreement regarding any term on which any physicians deal, or are willing to deal, with any payor or provider.

Paragraph II.B prohibits the proposed respondents from attempting to engage in a violation of Paragraph II.A. Paragraph II.C prohibits them from encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited if the person were subject to the order.

A proviso to Paragraph II allows the proposed respondents to engage in conduct (including collectively determining reimbursement and other terms of contracts) that is reasonably necessary to operate any “qualified risk-sharing joint arrangement” or “qualified

clinically-integrated joint arrangement.” As defined in the proposed order, a “qualified risk-sharing joint arrangement” must satisfy two conditions. First, all physician participants must share substantial financial risk through the arrangement. (The definition of financial risk-sharing tracks the discussion of that term contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.) Second, any agreement on prices or terms of reimbursement must be reasonably necessary to obtain significant efficiencies through the joint arrangement.

A “qualified clinically-integrated joint arrangement” is defined as one in which the physicians undertake cooperative activities to achieve efficiencies in the delivery of clinical services, without necessarily sharing substantial financial risk. (This definition also reflects the analysis contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.) Under this analysis, participating physicians must establish a high degree of interdependence and cooperation through their use of programs to evaluate and modify their clinical practice patterns, in order to control costs and assure the quality of physician services provided. In addition, any agreement on prices or terms of reimbursement must be reasonably necessary to obtain significant efficiencies through the joint arrangement.

Paragraph III of the proposed order requires OGM C to dissolve. The remaining provisions of the proposed order impose obligations on the proposed respondents with respect to facilitating OGM C’s dissolution; distributing the order and complaint to specified persons; and reporting information to the Commission. The order terminates 20 years after it issues.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–8860 Filed 4–11–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-02-40]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road,

MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

The National Breast and Cervical Cancer Early Detection Program (NBCCEDP)—New—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). The NBCCEDP was established in response to the Congressional Breast and Cervical Cancer Mortality Prevention Act of 1990 to provide early detection, breast and cervical cancer screening services for under-served women. The CDC proposes to aggregate breast and cervical cancer screening, diagnostic and treatment data from NBCCEDP grantees at the state, territory and tribal level. These aggregated data will include demographic information about women served through funded programs. The proposed data collection will also include infrastructure data about grantee management, public education and outreach, professional education, and service delivery.

Breast cancer is a leading cause of cancer-related death among American women. The American Cancer Society estimates that 203,500 new cases will be diagnosed among women in 2002, and 39,600 women will die of this disease. Mammography is extremely valuable as an early detection tool because it can detect breast cancer well before the woman can feel the lump, when it is still in an early and more treatable stage.

Women older than age 40 that receive annual mammography screening reduce their probability of breast cancer mortality and increase their treatment options.

Although early detection efforts have greatly decreased the incidence of invasive cervical cancer during the last four decades, an estimated 13,000 new cases will be diagnosed in 2002 and 4,100 women will die of this disease. Papanicolaou (Pap) tests effectively detect precancerous lesions in addition to invasive cervical cancer. The detection and treatment of precancerous lesions can prevent nearly all cervical cancer-related deaths.

Because breast and cervical cancer screening, diagnostic and treatment data are already collected and aggregated at the state, territory and tribal level, the additional burden on the grantees will be small. Implementation of this program will require grantees to report a minimum data set electronically to the CDC on a semi-annual basis. The program will require grantees to report infrastructure data to the CDC annually using a web-based system. Information collected will be used to obtain more complete breast and cervical cancer data, promote public education of cancer incidence and risk, improve the availability of screening and diagnostic services for under-served women, ensure the quality of services provided to women, and develop outreach strategies for women that are never or rarely screened for breast and cervical cancer. There are no costs to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State, territorial and tribal grantees	71	3	11	2,343
Total .....	.....	.....	.....	2,343

Dated: April 2, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02-8849 Filed 4-11-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02003]

Community-Based Participatory Prevention Research; Notice of Availability of Funds; Amendment

A notice announcing the availability of Fiscal Year 2002 funds for the Office of Extramural Prevention Research which address the "Healthy People 2010" focus area, Educational and Community-Based Programs was published in the **Federal Register** on

February 21, 2002, [Volume 67, No. 35, pages 8020-8024]. The notice is amended as follows:

Some inconsistencies remain between the latest PHS Form 398 (Rev. 05/01) and Program Announcement 02003 on page limits and information to be included in various sections. The following constitutes the resolution of these discrepancies:

"Section E. Content, 2. Application" of Program Announcement 02003 refers to "the narrative." The narrative should consist of items A to D in the Research Plan outlined on PHS Form 398. This agrees with items a to c in "Section E. Content, 2. Applications" of Program

Announcement 02003. In accordance with the instructions provided for the Research Plan on PHS Form 398, this narrative is not to exceed 25 single-spaced pages, printed on one side, with 1/2-inch margins, and standard size fonts (10 or 12 points).

The remaining items d to h from "Section E. Content, 2. Applications" of Program Announcement 02003 correspond to the following sections identified in the Table of Contents for PHS Form 398:

1. Item d should be included as part of the section entitled "Description, Performance Sites, and Personnel" (See Note 1).

2. Item e should be included as part of the section entitled "Description, Performance Sites, and Personnel" (See Note 1).

3. Item f should be included as a separate section after the section on "Resources" and should be labeled as "Item f." There is no corresponding section in PHS Form 398 for this item.

4. Item g should be included as part of the section entitled "Description, Performance Sites, and Personnel" (See Note 1).

5. Item h should be included in appropriate sections identified in the Table of Contents for PHS Form 398.

The "detailed first year's budget" should be included in the section entitled "Detailed Budget for Initial Budget Period." Budget projections for up to two additional years of support should be included in the section entitled "Entire Proposed Period of Support." If applicable, budgets pertaining to consortium/contractual arrangements should be included in the section entitled "Budgets Pertaining to Consortium/Contractual Arrangements."

Note one: Pay close attention to the detailed instructions provided for "Description, Performance Sites, and Personnel" in the Instructions for PHS 398 (Rev. 05/2001) entitled "Application for a Public Health Service Grant PHS 398: U.S. Department of Health and Human Services, Public Health Service Grant Application (PHS 398)."

Dated: April 8, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02-8863 Filed 4-11-02; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0112]

Agency Information Collection Activities; Proposed Collection; Comment Request; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements in implementing the Federal Import Milk Act (FIMA).

DATES: Submit written or electronic comments on the collection of information by June 11, 2002.

ADDRESSES: Submit electronic comments on the collection of information to <http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm>. Submit written comments on the collection of information to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the

public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Regulations Under the Federal Import Milk Act (21 CFR Part 1210) (OMB Control No. 0910-0212)—Extension

FIMA (21 U.S.C. 141-149) provides that milk or cream may be imported into the United States only by the holder of a valid import milk permit. Before such permit is issued: (1) All cows from which import milk or cream is produced must be physically examined and found healthy; (2) if the milk or cream is imported raw, all such cows must pass a tuberculin test; (3) the dairy farm and each plant in which the milk or cream is processed or handled must be inspected and found to meet certain sanitary requirements; (4) bacterial counts of the milk at the time of importation must not exceed specified limits; and (5) the temperature of the milk or cream at time of importation must not exceed 50 °F. The regulations in 21 CFR 1210.15 require that dairy farmers and plants maintain pasteurization records. The regulations in 21 CFR 1210.22 require that each container of milk or cream imported into the United States bear a tag with the product type, permit number, and shipper's name and address.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

FDA Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 1815/Permits granted on certificates	1210.23	8	1	8	0.5	4
FDA 1993/Application of permit	1210.20	8	1	8	0.5	4
FDA 1994/Tuberculin test	1210.13	1	1	1	1	1
FDA 1995/Physical examination of cows	1210.12	1	1	1	1	1
FDA 1996/Sanitary inspection of dairy farms	1210.11	8	200	1,600	1.5	2,400
FDA 1997/Sanitary inspections of plants	1210.14	8	1	8	2.0	16
Total						2,426

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1210.15	8	1	8	.05	.4

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on the number of current permit holders and the number of inquiries that FDA has received regarding requests for applications in the next 3 years.

No burden has been estimated for the tagging requirement in § 1210.22 because the information on the tag is either supplied by FDA (permit number) or is disclosed to third parties as a usual and customary part of the shipper's normal business activities (type of product and shipper's name and address). Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities. The Secretary of Health and Human Services has the discretion to allow Form FDA 1815, a duly certified statement signed by an accredited official of a foreign government, to be submitted in lieu of Forms FDA 1994 and 1995.

Dated: April 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-8840 Filed 4-11-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Manufacturing Inspections; Public Workshops; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshops; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of March 29, 2002 (67 FR 15210). The document announced a series of workshops to discuss the application of a systems-based approach to drug manufacturing inspections. The document was published with an inadvertent error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Doris B. Tucker, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: In FR Doc. 02-7579, appearing on page 15210 in the **Federal Register** of Friday, March 29, 2002, the following correction is made:

1. On page 15211, in the first column, in the fifth line from the bottom and also in the last line of the document "http://www.fda.gov.cder/calendar" is corrected to read "http://www.fda.gov/cder/workshop.htm."

Dated: April 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02-8839 Filed 4-11-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA AIDS Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of May 2002.

Name: HRSA AIDS Advisory Committee (HAAC).

Date and Time: May 30, 2002; 8:30 a.m.–5 p.m.; May 31, 2002; 8:30 a.m.–3:30 p.m.

Place: Capital Hilton, 1001 16th Street, NW., Washington, DC 20036, Telephone: (202) 393-1000.

The meeting is open to the public.

Agenda: Agenda items for the meeting include a discussion of HIV prevention and care linkages with the Centers for Disease Control and Prevention's Advisory Committee on HIV and STD Prevention, program updates, and coordination and collaboration with other Federal agencies including the Substance Abuse and Mental Health Services Administration (SAMHSA).

Anyone requiring further information should contact Shelley Gordon, HIV/AIDS Bureau, Parklawn Building, Room 16C-26, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-9684.

Dated: April 5, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02-8842 Filed 4-11-02; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

White House Initiative on Asian Americans and Pacific Islanders, President's Advisory Commission; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to conduct a public meeting during the month of May 2002.

Name: President's Advisory Commission on Asian Americans and Pacific Islanders (AAPIs).

Date and Time: May 1, 2002; 1 p.m.-4:30 p.m. EDT. May 2, 2002; 12:30 p.m.-5:30 p.m. EDT.

Location: Marriott Wardman Park, 22660 Woodley Road, NW., Washington, DC 20008.

The meeting is open to the public.

The President's Advisory Commission on AAPIs will conduct a public meeting on May 1, 2002, from 1 p.m. to 4:30 p.m. EDT inclusive, and subsequent meeting on May 2, 2002, from 12:30 p.m.-5:30 p.m. inclusive.

Agenda items will include, but will not be limited to: testimony from community organizations and individuals; testimony from federal agencies; reports and recommendations from Commissioners; administrative tasks; deadlines; and upcoming events.

The purpose of the Commission is to advise the President on issues facing Asian Americans and Pacific Islanders.

Requests to address the Commission should be made in writing and should include the name, address, telephone number and business or professional affiliation of the interested party. Individuals or groups addressing similar issues are encouraged to combine comments and present through a single representative. The allocation of time for remarks may be adjusted to accommodate the level of expressed interest. Written requests should be faxed to (301) 443-0259.

Anyone who has interest in joining any portion of the meeting or who requires additional information about the Commission should contact: Mr. Erik F. Wang, Office of the White House Initiative on AAPIs, Parklawn Building, Room 10-42, 5600 Fishers Lane, Rockville, MD, 20857, Telephone (301) 443-2492. Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Wang no later than April 22, 2002.

Dated: April 5, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02-8841 Filed 4-11-02; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Grant Program to Provide Treatment Services for Family, Juvenile, and Adult Treatment Drug Courts, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. funds FY 2002	Est. number of awards	Project period
Grants Program to Provide Treatment Services for Family, Juvenile, and Adult Treatment Drug Courts.	June 19, 2002	\$10,000,000	25	3 years.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106-310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161-1 (Rev. 7/00). The application kit contains the two-part application materials

(complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161-1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from:

National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847-2345, Telephone: 1-800-729-6686.

The PHS 5161-1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: <http://www.samhsa.gov>.

When requesting an application kit, the applicant must specify the particular

activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2002 funds to expand and/or enhance drug and alcohol treatment services (referred to as substance abuse treatment services) in support of Treatment Drug Courts that have begun operating no later than September 30, 2002. It is estimated there will be about 17 awards for Family

Treatment Drug Courts; and 8 awards for Juvenile or Adult Treatment Drug Courts.

Eligibility: Public and domestic private non-profit entities may apply. For example, the following may apply: States and local governments; Indian Tribes and tribal organizations; courts; community-based organizations; and faith based organizations. All providers of substance abuse treatment services involved in the proposed project must be in compliance with local, city, county and/or State licensing, accreditation, and/or certification requirements, and must have been delivering substance abuse treatment services for at least two years prior to the submission date of the application.

Availability of Funds: Approximately \$10,000,000 will be available in FY 2002. The average award is expected to range from \$300,000 to \$400,000 in costs (direct and indirect) each year. Awards in years 2 and 3 will be made subject to continued availability of funds to SAMHSA/CSAT, and progress achieved by the grantee.

Period of Support: An award may be requested for a project period of up to 3 years.

Criteria for Review and Funding:
General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Bruce Fry, J.D., CSAT/SAMHSA, Rockwall II, Suite 740, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-0128,

E-Mail: bfry@samhsa.gov.

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor,

5600 Fishers Lane, Rockville, MD 20857, (301) 443-9666,

E-Mail: shudak@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- a. A copy of the face page of the application (Standard form 424).
- b. A summary of the project (PHSIS), not to exceed one page, which provides:
 - (1) A description of the population to be served.
 - (2) A summary of the services to be provided.
 - (3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2002 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other

than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to:

Division of Extramural Activities,
Policy, and Review, Substance Abuse
and Mental Health Services
Administration, Parklawn Building,
Room 17-89, 5600 Fishers Lane,
Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 5, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02-8843 Filed 4-11-02; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, *Competitive Renewal for the Grants to Support Consumer and Consumer Supporter Technical Assistance Centers*, and Part II, *General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements*, before preparing and submitting an application.

Activity	Application dead-line	Est. funds FY 2001	Est. number of awards	Project period
Competitive Renewal for the Grants to Support Consumer and Consumer Supporter Technical Assistance Centers.	May 21, 2002	\$1,820,000	5	1 year.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: <http://www.samhsa.gov>.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), announces the availability of fiscal year (FY) 2002 funds to supplement and extend the five existing Consumer and Consumer Supporter Technical Assistance Centers. The purpose of these technical assistance centers is to develop and implement activities that assist in the improvement of mental health service systems at the State and local levels. In addition, the technical assistance centers are responsible for providing technical assistance and support to the 24 grantees under the Statewide Consumer Network Grant Program.

The President's proposed fiscal year 2003 budget does not include funding for the Consumer and Consumer Supporter Technical Assistance Centers.

In order to continue current activities while the applicant transitions to other funding sources, and to avoid any detrimental effects during the transition period, CMHS is issuing this GFA to continue funding of the existing centers for one additional year.

Eligibility: Because this GFA is to support a phaseout of this grant program, only the currently funded three consumer and two consumer supporter technical assistance centers may apply. These include the Consumer Organization and Networking Technical Assistance Center (CONAC), located in Charleston, West Virginia; National Empowerment Center (NEC), located in Lawrence, Massachusetts; National Mental Health Consumers' Self-Help Clearinghouse, located in Philadelphia, Pennsylvania; National Consumer Supporter Technical Assistance Center at the National Mental Health Association (NMHA), located in Alexandria, Virginia; and National Consumer Supporter Technical Assistance Center at the National Alliance for the Mentally Ill (NAMI), located in Arlington, Virginia.

Availability of Funds: In FY 2002, approximately \$1,820,000 will be available for all awards under this announcement and for the Alternatives Conference. Each of the five technical assistance centers may apply for the same amount (direct and indirect) as its third year award (September 2000). The actual level of awards will depend on the availability of appropriated funds and the applicant's budget justification.

Period of Support

The award may be requested for one year.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process.

Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions concerning program issues, contact: Risa S. Fox, 5600 Fishers Lane, Rockville, MD 20857, (301)443–3653, rfox@samhsa.gov.

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane 13–103, Rockville, MD 20857, (301) 443–9666, E-Mail: shudak@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

- A copy of the face page of the application (Standard form 424).
- A summary of the project (PHSIS), not to exceed one page, which provides:
 - A description of the population to be served.
 - A summary of the services to be provided.
 - A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco

products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372

Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17-89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 9, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02-8972 Filed 4-11-02; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4730-N-15]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: April 12, 2002.

FOR FURTHER INFORMATION CONTACT:

Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 4, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02-8748 Filed 4-11-02; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability of the Final Environmental Impact Statement for the proposed White River Amphitheatre, Muckleshoot Indian Reservation, King County, WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) intends to file a Final Environmental Impact Statement (FEIS) for the proposed White River Amphitheatre with the U.S. Environmental Protection Agency (EPA), and that the FEIS is now available for final public review. The proposed BIA action is to take into trust the land upon which the Muckleshoot Indian Tribe (Tribe) proposes to construct and operate a 20,000 seat amphitheatre. The purpose of the

proposed action is to meet the needs for an economically competitive performing arts center for the greater Seattle-Tacoma concert market and a place for cultural, educational and community events for the Tribe. The FEIS was prepared cooperatively among the BIA, EPA, U.S. Army Corps of Engineers (Corps) and Washington Department of Transportation (WSDOT), with the BIA acting as the lead agency under the court order in *United States ex rel. Citizens for Safety & Environment v. Bill Graham Enterprises, Inc.*, No. C97-1775C (W.D. Wash., April 17, 1998).

DATES: Comments on the Final Environmental Impact Statement are due on or before May 13, 2002. A Record of Decision will be issued after May 13, 2002.

ADDRESSES: You may mail or hand carry written comments to Stanley Speaks, Portland Regional Director, Bureau of Indian Affairs, 911 N.E. 11th Avenue, Portland, Oregon 97232-4169.

Copies of this FEIS may be obtained from June Boynton, NEPA Coordinator, Bureau of Indian Affairs, Northwest Region, at (503) 231-6749; or from Dean Torkko, EIS Coordinator, Washington State Department of Transportation, at (206) 440-4520, or via e-mail at torkkod@wsdot.wa.gov. Copies of the FEIS have already been sent to all agencies and individuals who participated in the scoping process or public hearings, who commented on the Draft EIS (DEIS), or who have already requested copies of the document.

FOR FURTHER INFORMATION CONTACT: June Boynton, (503) 231-6749.

SUPPLEMENTARY INFORMATION: Two federal actions are involved in the proposed construction of an outdoor amphitheatre in the southeastern portion of the Muckleshoot Indian Reservation, between the cities of Auburn and Enumclaw, King County, Washington. One is the BIA's decision whether to take into trust 324 acres of tribally owned fee land, on which the amphitheatre would be built. The other is the issuance by the Corps to the Tribe of a wetland fill permit under section 404 of the Clean Water Act (33 U.S.C. 1251 et seq.). The Corps will rely on this FEIS for their decision on the 404 permit. In addition, the FEIS will satisfy requirements of the Washington State Environmental Policy Act.

The FEIS presents a preferred alternative, no action alternative and three other alternatives. The preferred alternative calls for developing approximately 71 acres for a 20,000 seat amphitheatre, support facilities and surface parking, plus 17 acres for landscaping and buffers, including a

shielding berm along the southern boundary. The amphitheatre would have a main stage, a 10,000 seat bowl with fixed seating, a grass berm for informal lawn seating and an open air roof over the stage and fixed seating. Support facilities include a ticket and administrative office, a loading dock, a hospitality area for performers, a restaurant, cafes, concession stands and public rest rooms.

The no action alternative for the BIA assumes that the 324 acres would not be taken into trust and that no new highway access permits would be granted by the State of Washington. It also assumes that the amphitheatre would not be built at any other proposed site. The partially constructed facilities on the site (see discussion of site restoration alternative below) would not be completed as an amphitheatre, though may eventually be converted to other uses in the future.

For the purposes of the Corps Section 404 Permit, the no action alternative represents a "retain existing work" alternative. Previously disturbed wetlands would be restored, but some buffers would not, and compensatory mitigation would not be constructed.

The three other alternatives include (1) the "combined gravel quarry" alternative, which is an alternate location where a 20,000 seat amphitheatre like that in the preferred alternative would displace existing gravel quarrying operations; (2) a 10,000 seat alternative that would develop a smaller amphitheatre with an open air roof and support facilities similar to those for the preferred alternative, but with about one-half the parking capacity; and (3) a site restoration alternative where the partially completed facilities on the site of the preferred alternative would be removed and the site restored to a condition similar to its condition before construction was started. (This alternative is the Corps' no action alternative for purposes of the Section 404 permitting process, and also assumes that the amphitheatre would not be constructed at any of the proposed sites.)

The environmental issues addressed in the FEIS include traffic, noise, crime, water quality and quantity, wetlands, fish, wildlife and endangered species, geology, sewage disposal, air quality, cultural resources, land use, socio-economics, public safety, range of alternatives, and cumulative impacts. All of these issues were identified during public scoping and addressed in the DEIS. Consultation under the Endangered Species Act was completed with the U.S. Fish and Wildlife Service

for bull trout and with the National Marine Fisheries Service (NMFS) for chinook salmon after the DEIS was issued. Essential fish habitat consultation under the Magnuson-Stevens Fishery Conservation and Management Act was also completed with NMFS.

The BIA has afforded other government agencies and the public ample opportunity to participate in the preparation of this FEIS. A Notice of Intent to prepare the EIS, including notice of a public scoping meeting to be held on July 15, 1998, was published in the **Federal Register** on July 1, 1998 (63 FR 35939). The public comment period for scoping, including an extension, was open until August 3, 1998. The Notice of Availability for the DEIS was published in the **Federal Register** on August 27, 1999 (64 FR 46932). It provided a 60-day comment period, which was later extended for an additional 30 days. A public hearing on the DEIS was held on September 22, 1999, in Auburn, Washington.

Public Comment Availability

Comments, including names and home addresses of respondents, will be available for public review at the above address during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508), implementing the procedural requirements of NEPA, and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: April 1, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02-8854 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-W7-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-320-1330-PB-24 1A]

OMB Approval Number 1004-0169; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 3501 *et seq.*). On August 24, 2001, the BLM published a notice in the **Federal Register** (66 FR 44640) requesting comments on the collection. The comment period ended October 23, 2001. No comments were received. You may obtain copies of the proposed collection of information and related explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004-0169), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO-630) 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;
2. The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;
3. Ways to enhance the quality, utility, and clarity of the information collected; and
4. How to minimize the information collection burden on those who are to respond, including the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Use and Occupancy Under the Mining Laws, 43 CFR 3715.

OMB Approval Number: 1004-0169.

Abstract: BLM collects information from mining claimants and operators to analyze and approve proposed mining development activities on public lands. The nonform information under 43 CFR 3715 authorizes BLM to manage the use and occupancy on public lands for developing the mineral deposits by mining claimants. Respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations.

Form Number: None.

Frequency: Once.

Description of Respondents:

Respondents are mining claimants and operators of prospecting, exploration, mining, and processing operations.

Estimated Completion Time: 2 hours.

Annual Responses: 150.

Application Fee Per Response: There is no filing fee.

Annual Burden Hours: 300.

Bureau Clearance Officer: Michael H. Schwartz, (202) 452-5033.

Dated: March 6, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02-8872 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-033-02-1230-EA]

Temporary Closure of Public Lands—Recreation Special Events: Nevada, Carson City Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of affected public lands in Lyon, Storey, Churchill, Carson, Douglas, Mineral and Washoe Counties.

SUMMARY: The Bureau of Land Management, Carson City Field Office (BLM), announces the temporary closure of selected public lands under its administration in Lyon, Storey, Churchill, Carson, Douglas, Mineral and Washoe Counties. This action is taken to provide for public and participant safety and to protect adjacent natural and cultural resources during the conduct of permitted special recreation events.

The Assistant Manager, Non-Renewable Resources announces the

temporary closure of selected public lands under his administration. This action is taken to provide for public and participant safety and to protect adjacent natural and cultural resources during the conduct of permitted special recreation events.

EFFECTIVE DATES: April through November, 2002. Events may be canceled or rescheduled at short notice.

FOR FURTHER INFORMATION CONTACT: Fran Hull, Outdoor Recreation Planner, Carson City Field Office, Bureau of Land Management, 5665 Morgan Mill Road, Carson City, Nevada 89701, Telephone: (775) 885-6161.

SUPPLEMENTARY INFORMATION: This notice applies to closures on and adjacent to permitted special events such as: Motorized Off Highway Vehicle, Mountain Bike, Horse Endurance competitive event sites and routes. Competitive events (races) are conducted along dirt roads, trails, washes, and areas approved for such use through the Special Recreation Permit application process. Events occur from April through November, 2002. Closure period is from 6 a.m. race day until race finish or until the event has cleared between affected Check Point locations; approximately 2 to 24 hour periods. The general public will be advised of each event and Closure specifics via local newspapers and mailed public letters within seven (7) to thirty (30) days prior to the running of an event. Event maps and information will be posted at the Carson City Field Office.

Locations most commonly used for permitted events include, but are not limited to:

1. Lemmon Valley MX Area—Washoe Co., T21N R19E S8
2. Hungry Valley Off Highway Vehicle Area—Washoe Co., T21-23N R20E
3. Pine Nut Mountains—Carson, Douglas & Lyon Counties: T11-16N R20-24E
4. Virginia City/Jumbo Areas—Washoe & Storey Counties: T 16-17N R20-21E
5. Yerington/Weeks Areas—Lyon Co.: T12-16N R23-27E
6. Fallon Area (Including Sand Mtn.)—Churchill Co.: T14-18N R27-32E;
7. Hawthorne Area—Mineral County: T5-14N R31½-36E

Marking and Effect of Closure

BLM lands to be temporarily closed to public use include the width and length of those roads and trails identified as the race route by colorful flagging, chalk arrows in the dirt and directional arrows attached to wooden stakes. The authorized applicants or their representatives are required to post

warning signs, control access to, and clearly mark the event routes during closure periods.

Public uses generally affected by a Temporary Closure include: Road and trail uses, camping, shooting of any kind of weapon including paint ball, and public land exploration.

Spectator and support vehicles may be driven on open roads only.

Spectators may observe the races from specified locations as directed by event and agency officials.

You may obtain a map and schedule of each closure area at the contact address.

Exceptions

Closure restrictions do not apply to race officials, medical/rescue, law enforcement, and BLM personnel monitoring the event.

Authority: 43 CFR 8364.1 and 43 CFR subpart 8372.

Penalty

Any person failing to comply with the closure orders may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

Dated: March 1, 2002.

Charles P. Pope,

Assistant Manager, Non-Renewable Resources.

[FR Doc. 02-8874 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-1320-EM, WYW136142]

Federal Coal Lease Modification, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Environmental Assessment (EA) and Notice of Public Hearing on the Modification of Federal Coal Lease WYW136142 at the North Antelope/Rochelle Mine Complex operated by Powder River Coal Company, in Campbell County, WY.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and implementing regulations and other applicable statutes, the Bureau of Land Management (BLM) announces the availability of the Environmental Assessment (EA) for the modification of Federal coal lease WYW136142 in the Wyoming Powder River Basin, and announces the scheduled date and place for a public hearing pursuant to 43 CFR

3432, 3425.3 and 3425.4. The EA addresses the impacts of modifying this Federal coal lease and mining the modification area as a part of the North Antelope/Rochelle Mine Complex operated by Powder River Coal Company, in Campbell County, WY. The purpose of the hearing is to solicit public comments on the EA, the fair market value (FMV), the maximum economic recovery (MER), and the proposed noncompetitive offer of the coal included in the proposed lease modification. This lease modification is being considered for offer as a result of a request received from Powder River Coal Company on June 14, 2000. The tract as requested includes about 19.97 acres containing approximately 2.5 million tons of Federal coal reserves.

DATES: A public hearing will be held at 7 p.m. MDT, on May 14, 2002, at the BLM, Casper Field Office, 2987 Prospector Drive, Casper, WY. Written comments on the EA will be accepted for 30 days from the date this notice is published.

ADDRESSES: Please address questions, comments or requests for copies of the EA to the BLM, Casper Field Office, Attn: Mike Karbs, 2987 Prospector Drive, Casper, WY 82604; or you may e-mail them to the attention of Mike Karbs at casper-wymail@blm.gov; or fax them to 307-261-7587.

FOR FURTHER INFORMATION CONTACT: Mike Karbs or Nancy Doelger at the above address, or phone: 307-261-7600.

SUPPLEMENTARY INFORMATION: The BLM Casper Field Office has received a request to modify an existing Federal coal lease at the North Antelope/Rochelle Mine Complex. This mine is operated by Powder River Coal Company, and is located in Campbell County, WY, approximately 20 miles southeast of Wright. On June 14, 2000, Powder River Coal Company filed an application with the BLM to modify federal lease WYW136142 by adding the following lands:

T. 41 N., R. 70 W., 6th PM, Wyoming

Section 18: Lot 6 (N $\frac{1}{2}$) or (N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$).

This tract is adjacent to Powder River Coal Company's North Antelope/Rochelle Mine Complex and includes 19.97 acres more or less with an estimated 2.5 million tons of coal. This application was filed as a lease modification under the provisions of 43 CFR 3432.

BLM believes that this lease modification serves the interests of the U.S. because it allows for a more efficient recovery of coal in a narrow or "neck" area of the current lease. This modification area is logically recovered

as a part of the planned operations on the existing lease, and while this area could be recovered as part of a later competitive coal lease tract, that is not a certainty. If this coal is recovered in concert with the existing lease, it would result in minimal additional surface disturbance.

BLM further believes that there is no current competitive interest in the lands proposed for lease modification, although as noted above, this area could be recovered as part of a later competitive coal lease tract, but that may or may not occur. This lease modification would not reduce the competitive value of a later competitive coal lease tract. Under the lease modification process, the modified lands would be added to the existing lease without competitive bidding. Before offering the lease modification the BLM will prepare an appraisal of the FMV of the lease. The U.S. would receive FMV of the lease for the added lands.

The proposed lease modification is within the mine permit area of the North Antelope/Rochelle Mine Complex. No new facilities or employees would be needed to mine the coal. Haul distances would not be increased. If production at the North Antelope/Rochelle Mine continues at the 2000 rate of 70 million tons of coal, the 2.5 million tons of coal included in the proposed lease modification would represent less than one-half month of production. The lands have most recently been studied under the National Environmental Policy Act of 1969 (NEPA) as part of the Powder River/Thundercloud LBA EIS (lease by application environmental impact statement), as well as several earlier NEPA analyses. The environmental assessment incorporates these existing NEPA analyses. If this tract is modified into the current lease, the new lands must be incorporated into the existing mining plans for the North Antelope/Rochelle Mine Complex. The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency in the preparation of the environmental document because it is the Federal agency that is responsible for any required actions necessary to incorporate these lands into the current mining plan.

BLM conducted scoping during August 2001, soliciting specific concerns that should be considered in processing this modified lease application, with scoping comments accepted through September 7, 2001. A NEPA analysis addressing issues identified or information received during this scoping period for the

proposed lease modification was completed and distributed to the public on September 27, 2001. There was a public comment period on the NEPA analysis, with comments accepted until November 7, 2001. A public hearing was held on October 9, 2001, at the Clarion Western Plaza Hotel in Gillette, WY, to solicit public comment on the NEPA analysis, the proposed modification, and the FMV and MER of coal in the proposed tract. The EA addresses all the issues and information received as a result of the scoping and the review of the NEPA analysis. The EA was mailed to all known parties interested in this action on February 14, 2001. All written comments received and any additional comments received at the hearing or for 30 days from the date this notice is published will be addressed in the decision for this lease modification. In addition to preparing the EA, BLM will also develop possible stipulations regarding mining operations, determine the FMV of the tract, and evaluate MER of the coal in the proposed tract while processing this lease modification.

Comments on the EA, the FMV, the MER, and the proposed noncompetitive offer of the coal included in the proposed lease modification, as well as comments already received, including names and street addresses of respondents, will be available for public review at the address below during regular business hours (7:45 a.m.-4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: March 28, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02-8883 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****[CA-660-02-1610-DO]****Proposed California Desert Conservation Area Plan Amendment Palm Springs-South Coast Field Office, California****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of intent.

SUMMARY: This notice is an addendum to the notice of intent published June 28, 2000 (pages 39920-39922) for the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and California Desert Conservation Area (CDCA) Plan Amendment. In compliance with the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy Management Act of 1976 (FLPMA) and the Code of Federal Regulations (40 CFR 1501.7, 43 CFR 1610.2), notice is hereby given that the Bureau of Land Management (BLM), in collaboration with the Coachella Valley Association of Governments (CVAG), is preparing a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the CVMSHCP and CDCA Plan Amendment. The CDCA Plan Amendment planning boundary extends beyond the CVMSHCP planning boundary (described below), incorporating BLM-managed public lands within the Santa Rosa Wilderness and public lands surrounding Coyote Canyon in Riverside County, and those portions of the San Gorgonio Wilderness and Big Morongo Canyon Area of Critical Environmental Concern (ACEC) within San Bernardino County. The CDCA Plan Amendment does not include lands within BLM's South Coast planning area.

The BLM invites the public to participate in this planning and NEPA process. Citizens are requested to help identify significant issues or concerns to be addressed in the draft CDCA Plan amendment and to provide input on BLM's proposed planning criteria described below under **SUPPLEMENTARY INFORMATION**.

DATES: All comments received shall be taken into consideration prior to issuance of the Record of Decision. Please submit any scoping or proposed planning criteria comments in writing, 30-days from the date of this notice to ensure inclusion in the draft plan/EIS.

ADDRESSES: Written comments may be forwarded to the following address: Mr. James G. Kenna, Field Manager, Bureau

of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Ave., PO Box 581260, North Palm Springs, CA 92258-1260. Citizens submitting written comments will automatically be included in the mailing list to receive an electronic copy of the Draft CVMSHCP/CDCA Plan Amendment and joint EIS/EIR.

FOR FURTHER INFORMATION CONTACT: Ms. Elena Misque, Planning and Environmental Coordinator, Bureau of Land Management, Palm Springs-South Coast Field Office, telephone (760) 251-4800.

SUPPLEMENTARY INFORMATION: The CVMSHCP planning boundary encompasses 1,205,780 acres located in the central portion of Riverside County, California. The CVMSHCP planning boundary generally is defined by the ridgelines of the San Jacinto, Santa Rosa and Little San Bernardino Mountains, extending to the Imperial and San Diego County lines from the Cabazon/San Gorgonio Pass area in the northwest to and including, portions of the Salton Sea to the southeast. Approximately 24 percent of the planning area consists of BLM-managed public lands, while private lands total about 43 percent. The remaining 33 percent includes Native American, State and other public and quasi-public lands.

The CDCA Plan Amendment planning boundary extends beyond the CVMSHCP planning boundary, incorporating BLM-managed public lands within the CDCA boundary in Riverside County in the vicinity of Coyote Canyon and the Santa Rosa Wilderness (Township 8 South, Ranges 4 and 5 East), and those portions of the San Gorgonio Wilderness and Big Morongo Canyon ACEC within San Bernardino County (Townships 1 North and 1 South, Ranges 3, 4 and 5 East.).

Proposals and alternatives (including the "no action" alternative) to be addressed include opportunities for new off-highway vehicle open areas, wind energy projects, saleable minerals extraction and communication sites, establishment of air quality and fire management guidelines for the public lands, identification of changes in land use classification, new ACEC designations and public lands available for disposal, a re-evaluation of the wild horse and burro program in Palm Canyon and grazing in the Whitewater Canyon allotment, in addition to the multiple species conservation program being considered for the Coachella Valley. To ensure the aforementioned proposals are in conformance with the CDCA Plan, an amendment to the CDCA Plan is required.

The following types of issues are anticipated to be addressed through this planning process: (1) Recovery of threatened and endangered species and the avoidance of future listings, (2) identifying compatible multiple uses within and outside the CVMSHCP reserve areas, (3) improving quality of life in the Coachella Valley by implementing practices which promote a healthy environment and by providing safe and enjoyable recreational opportunities, (4) designate routes of travel for motorized vehicle access, (5) address management of grazing and wild horse and burros in the mountains surrounding the Coachella Valley.

In compliance with 43 CFR 1610.4-2, the BLM requests public input on the following proposed planning criteria, which will guide development and establish "sideboards" for preparation of the CDCA Plan Amendment. Please submit any comments in writing to the BLM address listed above no later than 30 days from the date of this **Federal Register** notice. Development of the CDCA Plan Amendment shall be conducted:

► In compliance with all applicable laws, regulations and policies which address such pertinent topics as BLM's multiple use mandate, valid existing rights, the Bureau's energy policy, ACECs, threatened and endangered species, route designation, land health, habitat and range management, cultural resources, Native American consultation, water quality, air quality, wilderness and other topics.

► In close coordination with the local jurisdictions, State and other Federal agencies to ensure consistency with the CVMSHCP. BLM shall also consider updating its ACEC and Wildlife Habitat Management Plans to ensure consistency with the CVMSHCP.

► To the extent practicable, without revising proposed decisions made through the Northern and Eastern Colorado Desert Plan.

► Considering relevant plans such as Recovery Plans prepared by the US Fish and Wildlife Service, the Agua Caliente Band of Cahuilla Indians Land Management Plan, and other plans.

► Such that nothing in the proposed plan amendment shall have the effect of terminating any validly issued rights-of-way or customary operation, maintenance, repair, and replacement activities in such rights-of-ways in accordance with sections 509(a) and 701(a) of FLPMA.

Selection of the preferred alternative will be based on the following proposed planning criteria:

► Promote long-term recovery and viability of native flora and fauna.

► Do not unduly burden Bureau resources and funding capability, including maintenance activities.

► Consider the manageability and implementability of approved actions relative to the urban/wildland interface and the public/private interface.

► Provide for multiple-use opportunities on the public lands throughout the Coachella Valley landscape, including recreation and energy-related projects.

► Seek to achieve common goals set forth in the CVMSHCP, selection of the preferred alternative shall be conducted in close coordination with the local jurisdictions to promote land management consistency, effectiveness and cost efficiency across jurisdictional boundaries.

An interdisciplinary team of BLM staff and contract specialists has been assembled to work on the plan amendment, representing the following disciplines: Wind energy, communications, socio-economics, minerals management, lands and realty, range management, recreation, wildlife, botany, cultural resources, air, water, soils, wilderness, wild and scenic rivers, planning, NEPA and other disciplines.

Citizens who wish to be actively involved with development of the CVMSHCP and CDCA Plan Amendment are encouraged to attend the Project Advisory Group (PAG) meetings held generally every fourth Thursday of the month starting at 9 a.m. in the CVAG conference room, 73-710 Fred Waring Drive, Palm Desert, CA 92260. Please contact the CVAG office at (760) 346-1127 for specific meeting dates.

Dated: February 7, 2002.

James G. Kenna,
Field Manager.

[FR Doc. 02-8876 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-014-01-1610-PG; GP 2-0174]

Klamath Provincial Advisory Committee; Meeting

AGENCY: Bureau of Land Management, Klamath Falls Resource Area.

ACTION: Meeting notice for the Klamath Provincial Advisory Committee.

SUMMARY: The Klamath Provincial Advisory Committee will meet at the Redding Municipal Airport, Redding Aero Enterprises building conference room, 3775 Flight Avenue, Redding, CA 96002 (530-224-2300), on Friday May

10 from 8:30 a.m. to 4:30 p.m. Among the topics to be discussed is the annual program of work for the committee, and reports from the subcommittees. The entire meeting is open to the public. Information to be distributed to the committee members is requested ten (10) days prior to the start of the meeting. An opportunity for public comment is scheduled for 11:30 a.m. to 12 Noon.

FOR FURTHER INFORMATION CONTACT:

Additional information concerning the Klamath Provincial Advisory Committee may be obtained from Teresa Raml, Field Manager, Klamath Falls Resource Area, 2795 Anderson Ave., Building 25, Klamath Falls, OR 97603, Phone Number 541-883-6916, FAX 541-884-2097, or e-mail traml@or.blm.gov.

Dated: April 4, 2002.

Donald K. Hoffheins,
Acting Field Manager, Klamath Falls Resource Area.

[FR Doc. 02-8882 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-015-1220-AA; GP-2-0056]

Notice of Temporary Motor Vehicle Restriction on Public Lands; Lake County, OR

AGENCY: Bureau of Land Management, Lakeview District, Lakeview Resource Area, Oregon, Interior.

ACTION: A temporary restriction to motorized vehicle use on public lands administered by the Bureau of Land Management (BLM), Lakeview District, Lakeview Resource Area, Oregon.

SUMMARY: The BLM is temporarily restricting some uses of motorized vehicles on approximately 2,500 acres of public lands in Lake County. Vehicles will be required to stay on existing roads and trails in the Juniper Mountain area. No cross-country vehicle use will be allowed. This restriction will enable vegetation to recover on an area burned in a wildfire during July of 2001.

DATES: This restriction will take effect on the published date of this notice. The restriction will continue until the Lakeview Resource Management Plan (RMP) is completed (currently scheduled for late 2002), which will specify the long-term vehicle management for the area.

FOR FURTHER INFORMATION CONTACT:

Trish Lindaman, BLM, Lakeview Resource Area, 1301 South G Street,

Lakeview, OR 97630; telephone (541) 947-6136.

Discussion of the Rules

The public lands affected by this restriction are all lands administered by the BLM west of BLM Roads 6185-2 and 7155, in Sections 18, 19, 20, 29, 30, 31, and 32 of Township 30 South, Range 24 East; and Sections 13 and 24 of Township 30 South, Range 25 East, Willamette Meridian, Oregon. This area is known as Juniper Mountain. The affected lands are those which burned in a wildfire in July of 2001, and which are also within the proposed Juniper Mountain Area of Critical Environmental Concern (ACEC). The Emergency Stabilization and Rehabilitation Plan and EA (OR-010-2001-07) outlined actions to restore vegetation and stabilize portions of the burned area, which included seeding, fencing, and restricting vehicles within the area. Restricting vehicles to existing roads and trails will help in the revegetation of the area and prevent soil erosion while the area is recovering from the effects of the fire. Vehicle restriction signs will be posted along the main access roads to this area. Maps of the vehicle use limitation area and information on the rehabilitation plans may be obtained from the Lakeview District office. Notice of the EA, FONSI, and DR for the rehabilitation plan was publicized in October of 2001. Due to the immediate resource protection concerns and requirements, there will not be a comment period for this emergency vehicle use restriction.

Prohibited Act

Under 43 CFR 8364.1, the Bureau of Land Management will enforce the following rule within the Juniper Mountain restriction area:

i. Motorized vehicles are not allowed off of existing roads and trails.

Exemptions

Persons who are exempt from these rules include any Federal, State, or local officer or employee in the scope of their duties, members of any organized rescue or fire-fighting force in performance of an official duty, and any person authorized in writing by the Bureau of Land Management.

Penalties

The authority for this closure is found under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7. Any person who violates this closure and restriction order may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no

more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Dated: February 22, 2002.

Scott R. Florence,

Field Manager, Lakeview Resource Area.

[FR Doc. 02-8879 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-930-1430-ET; COC-28312]

Public Land Order No. 7520; Revocation of Executive Order No. 1405; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order in its entirety as it affects 60 acres of public land withdrawn for the United States Forest Service Sapinero Guard Station. This action will open the land to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: May 13, 2002.

FOR FURTHER INFORMATION CONTACT:

Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Executive Order No. 1405, dated August 25, 1911, which withdrew public land for the United States Forest Service Sapinero Guard Station, is hereby revoked in its entirety:

Gunnison National Forest

New Mexico Principal Meridian

T. 49 N., R. 4 W.,

Sec. 20, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 29, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described contains 60 acres in Gunnison County.

2. At 9 a.m. on May 13, 2002, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on May 13, 2002, shall be considered as simultaneously filed at that time. Those

received thereafter shall be considered in the order of filing.

3. At 9 a.m. on May 13, 2002, the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 25, 2002.

Rebecca W. Watson,

Assistant Secretary.

[FR Doc. 02-8894 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-1430-EU; N-63091, N-63092, N-63093, N-63094, N-63095]

Notice of Realty Action: Competitive Sale of Public Lands

AGENCY: Bureau of Land Management.

ACTION: Competitive Sale of Public Lands in White Pine County, Nevada.

SUMMARY: The below listed public land in Snake Valley, White Pine County, Nevada have been examined and found suitable for disposal pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713, and 1719), and the Federal Land Transaction Facilitation Act of July 25, 2000 (Pub. L. 106-248).

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Assistant Field Manager, Nonrenewable Resources.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Jeffrey A. Weeks, Assistant Field Manager, Nonrenewable Resources, HC 33, Box 33500, Ely, NV 89301-9408.

FOR FURTHER INFORMATION CONTACT:

Detailed information concerning the sale, including the reservations, sale procedures and conditions, planning and environmental documents, are available at the Ely Field Office of the Bureau of Land Management, 702 North Industrial Way, Ely, Nevada 89301, or by calling Doris Metcalf, Realty Specialist, at the above address or telephone (775) 289-1852. Information will also be available on the Internet at <http://www.nv.blm.gov/ely>.

SUPPLEMENTARY INFORMATION: The following described parcels of land, situated in White Pine County are being offered as a competitive sale.

Mount Diablo Meridian, Nevada

N-63091 located at:

T. 14 N., R. 71 E.,
Section 30, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
Containing 10.00 acres more or less.
N-63092 located at:

T. 14 N., R. 71 E.,
Section 30, Lot 3,
Containing 7.08 acres more or less.
N-63093 located at:

T. 14 N., R. 71 E.,
Section 30, Lot 4,
Containing 5 acres more or less.
N-63094 located at:

T. 14 N., R. 71 E.,
Section 30, Lot 5,
Containing 5 acres more or less.
N-63095 located at:

T. 14 N., R. 71 E.,
Section 30, Lots 6-7,
Containing 7.20 acres more or less.

This land is not required for any federal purposes. The sale is consistent with current Bureau planning for this area and would be in the public interest.

The subject lands will be sold for at least fair market value as determined by appraisal. The locatable, salable and leasable mineral estates, other than oil and gas, will be conveyed with the surface.

The parcels will be offered for competitive sale by oral auction beginning at 10 a.m. PDT, July 18, 2002, at the Bureau of Land Management, Ely Field Office, 702 North Industrial Way, Ely, NV. Registration for oral bidding will begin at 8:00 a.m. the day of sale and will continue throughout the auction. All bidders are required to register.

The highest qualifying bid for each parcel will be declared the high bid. The apparent high bidder must submit the required bid deposit immediately following the close of the sale in the form of cash, personal check, bank draft, cashiers check, money order, or any combination thereof, made payable to the Bureau of Land Management, for not less than 20 percent of the amount bid.

The remainder of the full bid price must be paid within 180 calendar days of the date of sale. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the bid deposit to be forfeited to the BLM. Federal law requires that bidders must be U.S. citizens 18 years of age or older, a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property; or an entity, including but not limited to associations or partnerships, capable of holding property or interests therein under the law of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the bid deposit. In order to determine the fair market value of the subject public lands through appraisal, certain assumptions have been made on the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government.

Furthermore, no warranty of any kind shall be given or implied by the United States as to the potential uses of the lands offered for sale; conveyance of the subject lands will not be on a contingency basis. It is the buyers' responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing and potential uses for nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals would be the responsibility of the buyer.

The patent, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All the oil and gas mineral deposits in the land subject to this conveyance, including without limitation, the disposition of these substances under the mineral leasing laws. Its permittees, licensees and lessees, the right to prospect for, mine and remove the mineral owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental

activities conducted in accordance with the provisions of the mineral leasing laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, or surface mining operation, storage and transportation facilities deemed necessary and authorized under law and implementing regulations.

Unless otherwise provided by separate agreement with surface owner, permittees, licensees, the patent will be subject to the following:

The patent for the lands encompassed by N-63093 and N-63094, will be subject to the following reservation:

1. Those rights for an overhead three phase power transmission line and appurtenances right-of-way granted to Mt. Wheeler Power, Inc., its successors or assignees, by right-of-way No. N-5638, pursuant to the Act of March 4, 1911; (36 Stat. 1253) 43 U.S.C. 961. Right-of-way N-5638 expires June 3, 2026.

The patent for the lands encompassed by N-63095, will be subject to the following reservations:

1. Those rights for an overhead three phase power transmission line and appurtenances granted to Mt. Wheeler Power, Inc., its successors or assignees, by right-of-way No. N-5638, pursuant to the Act of March 4, 1911; (36 Stat. 1253) 43 U.S.C. 961. Right-of-way N-5638 expires June 3, 2026.

2. Those rights for a 10 foot wide right-of-way for an underground telephone cable and appurtenances granted to Nevada Bell, its successors or assignees, by right-of-way. No. N-56940, pursuant to the Act of October 21, 1976; (90 Stat. 2776) 43 U.S.C. 1761. Right-of-way N-56940 expires March 14, 2043.

3. Those rights for a microwave communication site right-of-way granted to Nevada Bell, its successors or assignees, by right-of-way No. N-53455, pursuant to the Act of October 21, 1976; (90 Stat. 2776) 43 U.S.C. 1761. Right-of-way N-56940 expires November 27, 2010.

4. A 30 foot wide road right-of-way from the northwest corner of Lot 9, along the west side of Lot 6, allowing access to Lot 3, and aliquot, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, granted to White Pine County.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, and leasing under the mineral leasing laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding this action to the Assistant Field Manager, Nonrenewable Resources at the address listed above. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In absence of any adverse comments, this realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws. The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: March 13, 2002.

Jeffrey A. Weeks,

Assistant Field Manager.

[FR Doc. 02-8875 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-1430-EU; N-75266]

Esmeralda County, NV; Notice of Realty Action: Sale of Public Land in Esmeralda County, Nevada, by Non-Competitive Sale Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Non-competitive sale of public lands in Esmeralda County, Nevada.

SUMMARY: The following described lands near Silver Peak, Esmeralda County, Nevada, have been examined and found suitable for disposal by direct sale, at the appraised fair market value, to Diversified Machine Technology, Inc., of Fallon, Nevada. Authority for the sale is in Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701, 1713, 1719).

Mount Diablo Meridian, Nevada

T. 3 S., R. 38 E.,

Sec. 1, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 2, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

totaling 27.5 acres.

The above-described lands are hereby classified for disposal in accordance with section 7 of the Taylor Grazing Act,

43 U.S.C. 315f, Act of June 28, 1934, as amended and Executive Order 6910.

DATES: Comments must be submitted within 45 days of the date this Notice is published in the **Federal Register**.

ADDRESSES: Bureau of Land Management, Tonopah Field Station, 1553 South Main Street, Post Office Box 911, Tonopah, Nevada 89049.

FOR FURTHER INFORMATION CONTACT: Wendy Barlow, Realty Specialist, at the above address or at (775)482-7806.

SUPPLEMENTARY INFORMATION: This parcel of land near Silver Peak, Nevada, is being offered by direct sale to Diversified Technology, Inc. The land is not required for Federal purposes. The proposed action is consistent with the objectives, goals, and decisions of the Tonopah Resource Management Plan.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. Acceptance of the sale offer will constitute an application for the available minerals and the purchaser will be charged a \$50.00 nonrefundable filing fee for the mineral interests.

The proponent will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 30 percent of the purchase price, the \$50 mineral filing fee, and money for publication costs. The purchaser must submit the rest of the purchase price, within 90 days from the date the sale offer is received. Payments may be by certified check, postal money order, bank draft, or cashier's check made payable to the U. S. Department of the Interior—BLM. Failure to meet conditions established for this sale will void the sale and any money received for the sale will be forfeited.

The patent, when issued, will contain a reservation to the United States for a right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945, and will be subject to:

1. Right-of-way N-51529 for a road, having a width of 9 feet from centerline;
2. Rights-of-way N-30965 held by Sierra Pacific Power Company for electrical power distribution lines and substation;

3. Geothermal Resources; and
4. Valid Existing rights.

Publication of this Notice in the **Federal Register** segregates the subject lands from all appropriations under the public land laws, except sale under the Federal Land Policy and Management Act of 1976. The segregation will terminate upon issuance of the patent or 270 days from date of publication, whichever ever occurs first.

For a period of 45 days from the date this Notice is published in the **Federal Register**, interested parties may submit comments to the Tonopah Field Station Manager at the above address. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action and issue a final determination. In the absence of timely filed objections this realty action will become the final determination of the Department of the Interior. The land will not be offered for sale until at least sixty days after the date this notice was published in the **Federal Register**.

Dated: March 5, 2002.

William S. Fisher,

Assistant Field Manager, Tonopah.

[FR Doc. 02-8889 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-050-1430-ES; N-41569-30 and N-73996]

Notice of Realty Action Segregation Terminated, Leases/Conveyances for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Segregation terminated, recreation and public purposes leases/conveyances.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated for exchange purposes on July 23, 1997 under serial numbers N-61855 and N-66364. The exchange segregations on the subject land will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for leases/conveyances for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Clark County School District proposes to use the land for an elementary school (N-41569-30) and Clark County proposes to use the land for a park (N-73996).

Elementary School: T. 22 S., R. 60 E., sec 10, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$. (approximately 12.5 acres).

Park: T. 22 S., R. 60 E., sec 10, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$. (approximately 10.0 acres).

The elementary school and park are located near the corner of Rainbow Boulevard and Warm Springs Road.

The land is not required for any federal purpose. The leases/conveyances are consistent with current Bureau planning for this area and would be in the public interest. The leases/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, Nevada or by calling (702) 515-5088. Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed leases/conveyances for classification of the land to the Las Vegas Field Manager, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, Nevada 89130-2301.

Classification Comments

Interested parties may submit comments involving the suitability of the land for an elementary school and park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use/uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs. The classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The land will not be offered for leases/conveyances until after the classification becomes effective.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor directly related to the suitability of the land for an elementary school and park. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: March 8, 2002.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 02-8891 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[NV-930-1430-ES; N 75545]

**Notice of Realty Action;
Noncompetitive Sale of Public Land in
Douglas County, NV**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Sale of a small parcel of public land will resolve an inadvertent unauthorized occupancy of the public land. The sale will be made under the provisions of the Federal Land Policy and Management Act. This notice will segregate the public land from other forms of appropriation.

EFFECTIVE DATE: The land will be segregated upon publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Charles J. Kihm, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701, 775-885-6000.

SUPPLEMENTARY INFORMATION: The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by direct sale under the authority of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at the appraised fair market value:

Mount Diablo Meridian, Nevada

T. 12 N., R. 20 E.,
Sec. 25, N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ (within).

Containing 0.137 acres, more or less.

The parcel will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**.

The above-described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

A direct sale is necessary to protect existing equities in the land and resolve inadvertent unauthorized use and occupancy of the land. The sale is consistent with the North Douglas County Specific Plan Amendment (June 2001) and the public interest will be served by offering this parcel for sale.

The terms, conditions, and reservations applicable to the sale are as follows:

1. The mineral interests being offered for conveyance have no known mineral value. Agreement to purchase the parcel will constitute an application for conveyance of the mineral estate, in accordance with Section 209 of the Federal Land Policy and Management Act. The designated buyer must include with their purchase payment a nonrefundable \$50.00 filing fee for the conveyance of the mineral estate.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Carson City Field Office. Any adverse comments will be reviewed by the Carson City Field Office Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: March 12, 2002.

Charles P. Pope,

Assistant Manager, Non-Renewable Resources, Carson City Field Office.

[FR Doc. 02-8893 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[NM-070-1430-EQ; NMNM107159]

**Notice of Realty Commercial Lease on
Public Land**

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Commercial Permit/Lease/Easement, Section 302, Federal Land Policy and Management Act.

SUMMARY: The Bureau of Land Management, Farmington Field Office, Farmington, New Mexico, has for consideration interest in land use authorization(s) under section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1732), and regulations at 43 CFR 2920. There is one proponent for use of BLM managed public lands in the Aztec, New Mexico vicinity. Aztec Heights Development LLC proposes to use approximately 160 acres of public land for a golf course located on the following described land:

Sections 23 and 27 of Township 30 N., R.11 W., New Mexico Principal Meridian, Sec. 23, lots 6 and 7;
Sec. 27, lots 1 and 2.

A determination to analyze the proposed project will be made subsequent to a review of the proponents application which will be accepted after the publication of the NORA.

If found suitable for the proposed uses, such use would be authorized through a competitive or non-competitive process, by lease, at fair market rental, paid annually in advance. A holder of a lease would be required, in advance of authorization, to agree to the terms and conditions of 43 CFR 2920.7 and such additional terms and conditions as are deemed necessary for the particular use authorization.

Leasing or issuance of easements under section 302 of FLPMA within the above-described area would be consistent with the Bureau of Land Management's current Farmington Resource Area Management Plan.

An authorized lessee would be required, in advance, to reimburse the United States for reasonable administrative fees and monitoring of construction, operation, maintenance, and rehabilitation of the land authorized. The reimbursement of costs would be in accordance with 43 CFR 2920.6.

Any lease authorized would be subject to valid existing rights, including, but not limited to the following:

1. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 68498, under the Act of February 25, 1920 (30 U.S.C. 185).

2. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 93631, under the Act of February 25, 1920 (30 U.S.C. 185).

3. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 93655, under the Act of February 25, 1920 (30 U.S.C. 185).

4. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 101150, under the Act of February 25, 1920 (30 U.S.C. 185).

5. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 043504, under the Act of February 25, 1920 (30 U.S.C. 185).

6. A right-of-way for a natural gas pipeline granted to El Paso Natural Gas by right-of-way New Mexico 0553699, under the Act of February 25, 1920 (30 U.S.C. 185).

Detailed information is available for review at the office of the Bureau of Land Management, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, New Mexico.

DATES: Interested parties may submit comments for a period of 45 days from publication of this Notice to: Bureau of Land Management, Field Office Manager, Farmington Field Office, 1235 La Plata Highway, Farmington, New Mexico 87401.

FOR FURTHER INFORMATION CONTACT: Kathy Ollom, Farmington Field Office, Bureau of Land Management, 1235 La Plata Highway, Farmington, New Mexico 87401; (505) 599-8914.

Joel E. Sarrell,

Acting Field Office Manager.

[FR Doc. 02-8880 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-VB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-025-02-1430-NJ: GPO 2-0136]

Realty Sale of Public Land in Harney County, OR

AGENCY: Bureau of Land Management (BLM), Burns District.

ACTION: Notice of realty action, sale of public land.

SUMMARY: The following public land is being considered for sale at the appraised fair market value, under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

Willamette Meridian

T. 22 S., R. 30 E.,
Section 23, lot 13.

Comprising 2.10 acres.

The following rights, reservations, and conditions will be included on the patents conveying the land:

A reservation for a right-of-way for ditches and canals constructed thereon by the authority of United States.

This land is being considered for direct sale to the adjacent landowner, Glen and Sharon Catterson, to resolve a long-term unintentional trespass. The encroachment involves portions of outbuildings and corrals that were inadvertently placed over the property line. Federal regulations describe procedures to address unauthorized use which include provisions to reimburse BLM for administrative costs.

The affected public land has been surveyed and includes an area measuring 2.10 acres. This configuration would minimize impacts to public resources, include all private improvements, and provide enough land to satisfy County set back requirements and the County road right-of-way.

The buyer has expressed an interest to obtain the Federal mineral estate which is offered under the authority of section 209(b) of the FLPMA of 1976. In addition to the fair market price, a nonrefundable fee of \$50 is necessary to purchase the mineral estate which would be conveyed simultaneously with the sale of the land.

The land described is segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

DATES: This office has prepared Documentation of Land Use Plan Conformance and National Environmental Policy Act Adequacy to evaluate the proposal. On or before May 28, 2002, interested persons may submit comments. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Comments should be submitted to the Acting Three Rivers Resource Area Field Manager, 28910 Hwy 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this public land sale is available from Holly Griebel LaChapelle, Land Law Examiner, at the above address, phone (541) 573-4501.

Dated: March 6, 2002.

Rudolph J. Hefter,

Acting Three Rivers Resource Area Field Manager.

[FR Doc. 02-8877 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-025-02-1430-NJ: GPO 2-0137]

Realty Action: Sale of Public Land in Harney County, Oregon

AGENCY: Bureau of Land Management (BLM), Burns District.

ACTION: Notice of Realty Action, Sale of Public Land.

SUMMARY: The following public land is being considered for sale at the appraised fair market value, under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

Willamette Meridian,

T. 24 S., R. 29 E.,
Section 2, lot 6.

Comprising 7.92 acres.

Appraised Market Value (minimum bid) is \$3,565.

The following rights, reservations, and conditions will be included on the patents conveying the land:

A reservation for a right-of-way for ditches and canals constructed thereon by the authority of United States.

This land is being considered for modified competitive sale to the adjacent landowner, Jack and Carolyn Bauer (designated bidder), to resolve a trespass. The encroachment involves portions of a plowed, planted, and cultivated field that was placed over the property line. Federal regulations describe procedures to address unauthorized use which include provisions to reimburse BLM for administrative costs.

The affected public land has been surveyed and includes an area measuring 7.92 acres. This configuration would minimize impacts to public resources, include all private improvements and provide enough land to satisfy County set back requirements and the highway right-of-way.

The buyer has expressed an interest to obtain the Federal mineral estate which is offered under the authority of section 209(b) of the FLPMA of 1976. In addition to the fair market price, a nonrefundable fee of \$50 is necessary to purchase the mineral estate which would be conveyed simultaneously with the sale of the land.

The land described is segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

Bidding Procedure for Modified Competitive Land Sale

Modified competitive procedures are allowed by the regulations (43 CFR 2710.0-6(c)(3)(ii)) to provide exceptions to competitive bidding to assure compatibility with existing and potential land uses.

Under modified competitive procedures the designated bidder, identified above as Jack and Carolyn Bauer, will be given the opportunity to match or exceed the apparent high bid. The apparent high bid will be established by the highest valid sealed bid received in an initial round of public bidding. If two or more valid sealed bids of the same amount are received for the same parcel, that amount shall be determined to be the apparent high bid. The designated bidder is required to submit a valid bid in the initial round of public bidding to maintain their preference consideration. The bid deposit for the apparent high bid(s) and the designated bidder will be retained and all others will be returned.

The designated bidder will be notified by certified mail of the apparent high bid. Failure to act by the designated bidder will result in the parcel being offered to the apparent high bidder or declared unsold, if no bids were received in the initial round of bidding.

All sealed bids must be submitted to the Burns District Office, no later than 2 p.m. PST on June 11, 2002, the time of the bid opening. The outside of bid envelopes must be clearly marked with "BLM Land Sale," the parcel number and the bid opening date. Bids must be for not less than the appraised market value (minimum bid) of \$3,565. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior-BLM for not less than 20 percent of the amount bid. The bid envelope must also contain a statement showing the total amount bid and the name, mailing address, and phone number of the entity making the bid.

Federal law requires that public land may be sold only to either, (1) citizens of the United States 18 years of age or older; (2) corporations subject to the laws of any State or the United States; (3) other entities such as associations and partnerships capable of holding land or interests therein under the laws of the State within which the land is located; or (4) States, State instrumentalities or political subdivisions authorized to hold property. Certifications and evidence to this effect will be required of the

purchaser prior to issuance of conveyance documents.

Prospective purchasers will be allowed 180 days to submit the balance of the purchase price. Personal checks or cash will be acceptable for this additional deposit only. Failure to meet this timeframe shall cause the deposit to be forfeited to the BLM. The parcel will then be offered to the next lowest qualified bidder, or if no other bids were received, the parcel will be declared unsold.

DATES: This office has prepared Documentation of Land Use Plan Conformance and National Environmental Policy Act Adequacy to evaluate the proposal. On or before May 28, 2002, interested persons may submit comments. In the absence of any objections, this proposal will become the determination of the Department of the Interior.

ADDRESSES: Comments should be submitted to the Acting Three Rivers Resource Area Field Manager, 28910 Hwy 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this public land sale is available from Holly Griebel LaChapelle, Land Law Examiner, at the above address, phone (541) 573-4501.

Dated: March 6, 2002.

Rudolph J. Hefter,

Acting Three Rivers Resource Area Field Manager.

[FR Doc. 02-8878 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-921-1410-BK-P]

Alaska; Notice for Publication; Filing of Plat of Survey; Alaska

The plat of survey of the following described land was officially filed in the Alaska State Office, Anchorage, Alaska, on the date indicated.

A plat representing the dependent resurvey of U.S. Survey No. 3440, Alaska, Tracts 1 and 2, situated on Nonvianuk Lake, approximately 60 miles northeasterly from King Salmon, Alaska, was accepted November 30, 2001, and was officially filed February 11, 2002.

This plat was prepared at the request of the National Park Service to delineate the surrounding public lands.

This plat will immediately become the basic record for describing the land for all authorized purposes. This survey has been placed in the open files in the

Alaska State Office and is available to the public as a matter of information.

All inquiries relating to these lands should be sent to the Alaska State Office, Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599; 907-267-1403.

Daniel L. Johnson,

Chief, Branch of Field Surveys.

[FR Doc. 02-8881 Filed 4-11-02; 8:45 am]

BILLING CODE 1410-BK-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-933-1430-ET; F-022962]

Notice of Conformance to Survey; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice provides official publication of the surveyed description for the Newtok National Guard Site at Newtok, Alaska. The site was withdrawn for the Department of the Army by Public Land Order No. 2020, for use by the Alaska National Guard. The plat of survey was officially filed in the United States Department of the Interior, Bureau of Land Management, Washington, DC on September 1, 1964. United States Survey No. 4042, Lot 2, located within T. 10 N., R. 87 W., Seward Meridian, Alaska, containing 1.26 acres, represents the land that was previously described as follows:

A tract of land on the shore of Bering Sea north of Nelson Island, at approximate Latitude 60°56' N., Longitude 164°37' W., described as follows:

Beginning at the northeast corner of school building existing in 1958; thence N. 22° W. 700 feet to the point of beginning; thence S. 68° W., 250 feet; N. 22° W., 220 feet; N. 68° E., 250 feet; S. 22° E., 220 feet to the point of beginning.

The area as described contained approximately 1.26 acres.

ADDRESSES: Inquiries about this land should be sent to the Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, BLM Alaska State Office, 907-271-5477.

Dated: February 25, 2002.

C. Michael Brown,

Acting Chief, Lands Branch, Division of Lands, Minerals, and Resources.

[FR Doc. 02-8886 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[ES-960-1910-BJ-4041] ES-51490, Group 104, Arkansas

Notice of Filing of Plat of Survey; Arkansas

The dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of certain sections, Township 16 North, Range 17 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on May 23, 2002.

The survey was made at the request of the National Park Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., May 23, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: March 19, 2002.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 02-8892 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-GJ-P

DEPARTMENT OF THE INTERIOR**Minerals Management Service****Minerals Management Advisory Board, Outer Continental Shelf (OCS), Scientific Committee (SC)**

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of vacancies and request for nominations.

SUMMARY: The MMS is seeking interested and qualified individuals to serve on its Minerals Management Advisory Board OCS SC during the period of October 1, 2002, through September 30, 2004. The initial 2-year term may be renewable for up to an additional 4 years.

ADDRESSES: Interested individuals should send a letter of interest and resume within 60 days to: Ms. Julie Reynolds, Program Planner, Offshore Minerals Management, Minerals Management Service, 381 Elden Street, Mail Stop 4001, Herndon, Virginia 20170. She may be reached by telephone at (703) 787-1211.

SUPPLEMENTARY INFORMATION: The OCS SC is chartered under the Federal Advisory Committee Act to advise the

Director of the MMS on the appropriateness, feasibility, and scientific value of the OCS Environmental Studies Program (ESP) and environmental aspects of the offshore oil and gas program. The ESP, which was authorized by the OCS Lands Act as amended (Section 20), is administered by the MMS and covers a wide range of field and laboratory studies in biology, chemistry, and physical oceanography, as well as studies of the social and economic impacts of OCS oil and gas development. Currently, the work is conducted through award of competitive contracts and interagency and cooperative agreements. The OCS SC reviews the relevance of the information being produced by the ESP and may recommend changes in its scope, direction, and emphasis.

The OCS SC comprises distinguished scientists in appropriate disciplines of the biological, physical, chemical, and socioeconomic sciences. Vacancies, which need to be filled, exist in the social science, ecology/biology, and physical oceanography disciplines. The selection is based on maintaining disciplinary expertise in all areas of research, as well as geographic balance. Demonstrated knowledge of the scientific issues related to OCS oil and gas development is essential. Selection is made by the Department of the Interior on the basis of these factors; appointments to the Committee are made by the Secretary of the Interior.

Authority: Federal Advisory Committee Act, P.L. 92-463, 5 U.S.C., Appendix I, and the Office of Management and Budget's Circular A-63, Revised.

Dated: March 22, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02-8845 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR**Minerals Management Service****Outer Continental Shelf (OCS) Civil/Criminal Penalties**

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice summarizing OCS civil penalties paid, January 1, 2001, through December 31, 2001.

SUMMARY: This notice provides a listing of civil penalties paid January 1, 2001, through December 31, 2001, for violations of the OCS Lands Act. The purpose of publishing the penalties

summary is to provide information to the public on violations of special concern in OCS operations and to provide an additional incentive for safe and environmentally sound operations.

FOR FURTHER INFORMATION CONTACT:

Doug Slitor (Program Coordinator), Performance and Safety Branch, Engineering and Operations Division, (703) 787-1030.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (OPA 90) strengthened section 24 of the OCS Lands Act Amendments of 1978. Subtitle B of OPA 90, titled "Penalties," increased the amount of the civil penalty from a maximum of \$10,000 to a maximum of \$20,000 per violation for each day of noncompliance. More importantly, in cases where a failure to comply with applicable regulations constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life); property; any mineral deposit; or the marine, coastal, or human environment; OPA 90 provided the Secretary of the Interior (Secretary) with the authority to assess a civil penalty without regard to the requirement of expiration of a period of time allowed for corrective action.

In addition, the provisions of OPA 90 require the Secretary to adjust the maximum civil penalty to reflect any increases in the Consumer Price Index. Current regulations at 30 CFR 250.1403 specify the maximum civil penalty of \$25,000 per day, per violation.

Between August 18, 1990, and January 2002, MMS initiated 396 civil penalty reviews. MMS assessed 291 civil penalties and collected \$8,218,542 in fines. During this time period, 56 cases were dismissed, 4 cases were merged, and 46 are under review.

On September 1, 1997, the Associate Director of Offshore Minerals Management issued a notice informing lessees and operators of Federal oil, gas, and sulphur leases on the OCS that MMS will annually publish a summary of OCS civil penalties paid. The annual summary will highlight the identity of the party, the regulation violated, and the amount paid. The following table provides a listing of the penalties paid between January 1, 2001, and December 31, 2001. A quarterly update of the list is posted on the MMS worldwide web home page, <http://www.mms.gov>.

OCS Civil/Criminal Penalties Program

The goal of the MMS OCS Civil/Criminal Penalties Program is to ensure safe and clean operations on the OCS. Through the pursuit, assessment, and collection of civil penalties and referrals

for the consideration of criminal penalties, the program is designed to encourage compliance with OCS statutes and regulations.

The following acronyms are used in this table.

ESD (emergency shutdown device);

INC (incident of non-compliance);

LACT (liquid automatic custody transfer);

LSH (level safety high);

LSL (level safety low);

NON (notice of non-compliance);

PSL (pressure safety low);

PSHL (pressure safety high/low);

PSV (pressure safety valve);

SCSSV (surface controlled subsurface safety valve);

SSV (subsurface valve).

Cited regulations are accurate as of the date of the infraction. Where applicable, subsequent renumbered regulatory citations are also shown in brackets.

2001 CIVIL/CRIMINAL PENALTIES SUMMARY PAID IN CALENDAR YEAR 2001

Operator name and Case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR)
BP Exploration & Oil Inc., G-2000-029	Unsafe operations were conducted during the slip and cut of the drill line, and an employee was seriously injured. 3/16/00-3/16/00	\$20,000 2/14/01	250.107(a)
Santa Fe Snyder Corporation; G-2000-031.	A derrickhand who was allowed to remain in the derrick during a pressure test of a Kelly hose was seriously injured when the hose burst. 3/4/00-3/4/00	\$24,000 1/30/01	250.107
Millennium Offshore Group, Inc.; G-2000-035.	Seven violations involving the bypass of the following: (1) SCSSV on Well A-3, (2) PSL LACT Charge Pump #1, (3) PSL LACT Charge Pump #2, (4) PSL on the Pipeline Pump #1, (5) PSL on the Pipeline Pump #2, (6) LSL on the Dry Oil Tank, and (7) LSL on the Wet Oil Tank. 5/17/00-5/22/00 5/21/00-5/22/00	\$54,000 8/15/01	250.803(c)(1) 250.803(c)(1)
Amoco Production Company; G-2000-036.	The lift capacity for the platform crane was exceeded causing personnel injury and property damage. 1/26/00-1/26/00	\$23,000 1/13/01	250.120(c)
PANACO, INC.; G-2000-037	No annual crane inspection for 1998 and 1999. Gas detection system not tested within required timeframe. SCSSV in Well No. A-5L exceeded 12-month-test requirement. Records indicate that SSV's for Wells Nos. A-4L and A-4U were leaking since 10/29/99; valves not immediately repaired or replaced. Since 8/95, unable to test SCSSV in Well No. A-4L due to communication between tubing and production casing above and below valve. Failure to correct missing skirting on heliport; originally cited on 10/14/98. 01/01/96-03/17/00 06/02/98-07/09/98 11/11/94-03/14/00 12/12/99-03/16/00 10/14/98-03/14/00 02/26/00-03/16/00	\$525,200 6/7/01	250.20(c) {250.120(c)} 250.124(a)(1)(ii) {250.804(a)(1)(ii)} 250.87(c) {250.517(c)} 250.804(a)(4) 250.120(a) {250.800} 250.804(a)(8)
Energy Resource Technology, Inc.; G-2000-039.	The Gas Detection System was not tested for one required quarterly test and one sensor failed when inspected. 1/11/00-2/3/00	\$12,000 10/30/01	250.804(a)(8)
Forcenergy Inc.; G-2000-041	PSHL on flowline for Well No. A-5 was bypassed 3/23/00-3/23/00	\$18,000 4/30/01	250.803(c)(1)
Equitable Production Company; G-2000-042.	Tubing plugs in Wells Nos. C-5D and C-6 found leaking on January 31, 1999. Not repaired until May 16, 2000. 1/31/99-5/16/00	\$283,200 5/1/01	250.804(a)(1)(iii)
ATP Oil & Gas Corporation; G-2000-043.	Heater treater fire tube stack not insulated. Fire occurred on platform from sprayed condensate onto the heater treater fire tube stack. 5/2/00-5/2/00	\$15,000 2/13/01	250.803(b)(5)(i)
Apache Corporation; G-2000-046	PSV on the compressor fuel gas filter was blocked out of service. 7/16/00-7/25/00	\$20,000 1/12/01	250.803(c)(1)
Shell Offshore Inc.; G-2000-048	SCSSV for well JN-1U was bypassed 2/21/00-2/21/00	\$10,000 5/25/01	250.803(c)(1)
Energy Resource Technology, Inc.; G-2000-049.	Tubing plugs for 15 wells last tested for leakage Sept 1999. Should be checked every 6 months; missed one leakage test per well. 3/2/00-5/09/00 3/2/00-5/10/00	\$45,000 5/17/01	250.804(a)(1)(iii) 250.804(a)(1)(iii)
Union Oil Company of California; G-2000-051.	Did not conduct an annual crane inspection 10/19/99-8/25/00	\$10,000 11/29/01	250.120(c) {250.800}
Energy Resource Technology, Inc.; G-2000-052.	Pollution resulted from an improperly maintained skim pile 4/11/00-4/11/00	\$20,000 4/26/01	250.300(b)(4)

2001 CIVIL/CRIMINAL PENALTIES SUMMARY PAID IN CALENDAR YEAR 2001—Continued

Operator name and Case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR)
W & T Offshore, Inc.; G-2000-053	Glycol safety system relay pinned out of service; PSL bypassed on the pipeline; LSH inoperable on sump pile. 8/09/00-8/09/00 7/27/00-7/27/00	\$36,000 3/26/01	250.803(c)(1) 250.803(c)(1)
Barrett Resources Corporation; G-2000-054.	13 well's SCSSV's not being tested in the required 6 month interval. 2/11/00-7/26/00 2/11/00-7/26/00 2/13/00-7/26/00 2/13/00-7/26/00 2/13/00-7/26/00 2/20/00-7/26/00	\$67,000 9/18/01	250.804(a)(1)(iii) 250.804(a)(1)(iii) 250.804(a)(1)(i) 250.804(a)(1)(iii) 250.804(a)(1)(i) 250.804(a)(1)(i)
Freeport-McMoRan Sulphur LLC; G-2000-055.	A sulphur fire occurred from welding operations	\$17,500 5/5/01	250.107(a)
Chevron U.S.A. Inc.; G-2000-057	The firewater system was inoperable for 81 days	\$810,000 6/28/01	250.803(b)(8)
Elf Exploration, Inc.; G-2000-058	PSV on the glycol filter was improperly maintained including a broken valve stem on the isolation valve. The glycol master panel was bypassed on 8/2/2000. The PSV on the glycol contractor was bypassed on 8/7 & 8/2000. The SCSSV for Well A-1 was not tested within the required timeframe (two 6-month tests were missed). 8/2/00-8/2/00 6/3/99-8/2/00 8/7/00-8/8/00 8/8/00-8/8/00	\$33,000 10/19/01	250.803(c)(1) 250.804(a)(1)(i) 250.803(c)(1) 250.107
Apache Corporation; G-2000-060	The SCSSV in Well A-6 was tested on April 9, 2000, and found to be leaking greater than the allowable leakage rate. For 3 days the SCSSV was not removed, repaired and reinstalled, or replaced; it was not monitored during this time either. 4/9/00-4/11/00	\$21,000 8/16/01	250.804(a)(1)(i)
Coastal Oil & Gas Corporation; G-2001-001.	Two fires occurred on the same day and unsafe and unworkmanlike operations were conducted in both instances. For both fires, hot work operations were conducted in close proximity of the dry oil tank even though there was prior knowledge of gas escaping from valves on top of the tank. 8/16/00-8/16/00 8/16/00-8/16/00	\$37,000 8/16/01	250.107(a) 250.107(a)
Apache Corporation; G-2001-002	A flash fire occurred when the operator did not properly protect equipment containing hydrocarbons (that was within 35 feet horizontally from the welding area) from slag and sparks. 10/24/00-10/24/00	\$15,000 11/6/01	250.113(a)
Elf Exploration, Inc.; G-2001-003	Overflow of oil from the bad oil tank and containment system resulted in a flash fire causing serious damage to equipment on platform and the release of oil into the Gulf of Mexico. 8/9/00-8/9/00 8/9/00-8/9/00	\$45,000 10/19/01	250.300(a) 250.107(a)
Pogo Producing Company; G-2001-007.	Bypassed ESD at boat landing	\$5,000 7/24/01	250.803(c)(1)
Coastal Oil & Gas Corporation; G-2001-008.	Fuel gas scrubber PSHL was in bypass position on production main panel; not flagged nor monitored. 1/14/01-1/14/01	\$7,500 8/17/01	250.803(c)(1)
Burlington Resources Offshore Inc.; G-2001-011.	PSV for 2nd stage compressor discharge set out of range	\$27,000 8/15/01	250.804(a)(2)
Apache Corporation; G-2001-012	Drilling operations continued as the air supply line to gas detector used to monitor drilling mud returns was turned off rendering the detector inoperable. 2/9/01-2/9/01	\$14,000 10/31/01	250.410(c)(2)(iv)
El Paso Production GOM Inc.; G-2001-014.	One semi-annual test period missed on an SCSSV	\$15,000 12/11/01	250.804(a)(1)(i)
Shell Offshore, Inc.; G-2001-023	A pollution event occurred as a result of pumps and LSHs on the Dry Oil Tank and Emergency Sump not operating correctly. 3/20/01-3/20/01	\$20,000 12/20/01	250.300(a)
RME Petroleum Company; G-2001-033.	The gas detection system in the mud pit room was inoperable for 3 days. 4/21/01-4/23/01	\$52,500 12/28/01	250.410(e)(3)
Aera Energy LLC; P-1999-001	Failure to properly maintain pipeline, resulting in a pollution event. 6/7/99	\$25,000 5/4/01	250.300(a)

2001 CIVIL/CRIMINAL PENALTIES SUMMARY PAID IN CALENDAR YEAR 2001—Continued

Operator name and Case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR)
Chevron U.S.A. Inc.; P-1999-002	Failure to replace compromised piping in a timely manner or remove it from service resulted in piping failure and release of 32,000 cf gas with 18,000 ppm H ₂ S, causing damage to facility and placing platform and lives of all personnel on platform in substantial danger. 7/21/99-8/3/99; 8/3/99	\$350,000 06/29/01	250.120(a) {250.800}

Total Penalties Paid: 1/1/01-12/31/01
32 Cases: \$2,724,900

Dated: March 27, 2002.

Paul E. Martin,

Acting Chief, Engineering and Operations Division.

[FR Doc. 02-8846 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2002, through October 31, 2002. The List of Restricted Joint Bidders published October 12, 2001, in the **Federal Register** at 66 FR 52150 covered the period November 1, 2001, through April 30, 2002.

Group I. Exxon Mobil Corporation and ExxonMobil Exploration Company.

Group II. Shell Oil Company, Shell Offshore Inc., SWEPI LP, Shell Frontier Oil & Gas Inc., Shell Consolidated Energy Resources Inc., Shell Land & Energy Company, Shell Onshore Ventures Inc., Shell Offshore Properties and Capital II, Inc., and Shell Rocky Mountain Production LLC.

Group III. BP Exploration & Oil Inc., BP Exploration & Production Inc., BP Exploration (Alaska) Inc., Amoco Production Company, Vastar Offshore Inc., and Vastar Resources Inc.

Group IV. TotalFinaElf E&P USA, Inc., Elf Aquitaine Oil Programs, Inc., TOTAL Exploration Production USA, Inc., and Fina E&P Inc.

Group V. ChevronTexaco Corporation, Chevron U.S.A. Inc., Texaco Inc., and Texaco Exploration and Production Inc.

Dated: March 29, 2002.

R.M. "Johnnie" Burton,

Director, Minerals Management Service.

[FR Doc. 02-8848 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS) Official Protraction Diagrams (OPD)

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of revised OCS OPD in the South Atlantic Planning Area.

SUMMARY: Notice is hereby given that effective with this publication, the following NAD 83-based OCS OPDs in the South Atlantic Planning Area last revised on the date indicated, are on file and available for information only in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, these diagrams are the basic record for the description of the OCS geographic areas they represent.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and OPDs are \$2.00 each. These may be purchased from the Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, Telephone (504) 736-2519 or (800) 200-GULF.

SUPPLEMENTARY INFORMATION: Leasing Maps and OPDs may be obtained in two digital formats: .gra files for use in ARC/INFO and .pdf files for viewing and printing in Acrobat. Copies are also available for download at www.gomr.mms.gov/homepg/lseale/mapdiag.html.

Description	Date
NH17-02 Brunswick	May 10, 2001.
NH17-05 Jacksonville	May 10, 2001.
NI17-11 Savannah	May 10, 2001.

Dated: March 15, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02-8847 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

National Park Service

Native American Graves Protection and Repatriation Review Committee Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Native American Graves Protection and Repatriation Review Committee: Notice of Nomination Solicitation

SUMMARY: The Secretary of the Interior is soliciting nominations for a traditional Native American religious leader to serve as a member of the Native American Graves Protection and Repatriation Review Committee. In accordance with the provisions of the Native American Graves Protection and Repatriation Review Act (NAGPRA), 25 U.S.C. 3000-3016, only nominations from Indian tribes, Native Hawaiian organizations, and traditional religious leaders will be considered in appointing this member.

DATES: Interested Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders are invited to nominate traditional Native American religious leaders for the Secretary's consideration in appointing one member to the review committee. Nominations should include all information as specified under Supplementary Information. All

nominations must be received by close of business on May 13, 2002.

ADDRESSES: Nominations should be sent (1) by mail to the Manager, National NAGPRA Program, National Park Service, 1849 C Street NW-350NC, Washington, DC 20240; or (2) by commercial delivery address to the Manager, National NAGPRA Program, National Park Service, 800 North Capitol Street NW, Suite 350, Washington, DC 20001.

Increased security in the Washington, DC, area may cause delays in the delivery of U.S. Mail to Government offices. In addition to mail or commercial delivery, please also fax a copy of the mailed nomination to Manager, National NAGPRA Program, at (202) 343-5260, to ensure timely review. Nominations sent to addressees or addresses other than those listed above or nominations sent by mail without a follow-up fax transmission may not reach the National NAGPRA Program in time for consideration.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Stearns, Manager, National NAGPRA Program, 1849 C Street NW-350NC, Washington, DC 20240, telephone (202) 343-5266. A copy of the charter for this review committee is available upon request or at the National NAGPRA Program website, <http://www.cr.nps.gov/nagpra/> (click on "Review Committee," then click on "Procedures").

SUPPLEMENTARY INFORMATION: Each nomination should contain the name, home and business addresses and telephone numbers, and a brief biography of the traditional Native American religious leader recommended for appointment. The nomination should also contain the following:

(a) Nominations submitted by an Indian tribe or Native Hawaiian organization must be signed by the leader of the tribe or organization, and must include the leader's name, title, address, and daytime telephone number.

In accordance with NAGPRA's regulations, a tribe's or organization's leader is "the principal leader of an Indian tribe or Native Hawaiian organization or the individual officially designated by the governing body of an Indian tribe or Native Hawaiian organization or as otherwise provided by tribal code, policy, or established procedure as responsible for matters relating to these regulations" (43 C.F.R. 10.2 (b)(4)).

Indian tribe means "any tribe, band, nation, or other organized Indian group or community of Indians, including any

Alaska Native village or corporation as defined in or established by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians" (43 U.S.C. 10.2 (b)(2)).

Native Hawaiian organization means "any organization that: (A) Serves and represents the interests of Native Hawaiians; (B) Has as a primary and stated purpose the provision of services to Native Hawaiians; and (C) Has expertise in Native Hawaiian affairs" (43 U.S.C. 10.2 (b)(3)(i)).

(b) Nominations submitted by traditional religious leaders should identify the nominator as a traditional religious leader and include his/her title, business and home address, and a daytime telephone number.

In accordance with NAGPRA's regulations, a traditional religious leader is "a person who is recognized by members of an Indian tribe or Native Hawaiian organization as: (i) Being responsible for performing cultural duties relating to the ceremonial or religious traditions of that Indian tribe or Native Hawaiian organization, or (ii) Exercising a leadership role in an Indian tribe or Native Hawaiian organization based on the tribe or organization's cultural, ceremonial, or religious practices" (43 C.F.R. 10.2 (d)(3)).

Nominations from other individual tribal members cannot be considered.

The review committee's duties include monitoring the implementation of the statute, facilitating the resolution of disputes, consulting with the Secretary of the Interior in the development of regulations, and reporting to Congress on the status of implementation (25 U.S.C. 3006). As stipulated by 25 U.S.C. 3006 (b), the review committee is composed of seven members appointed by the Secretary of the Interior as follows:

(a) Three members appointed from nominations by Indian tribes, Native Hawaiian organizations, and traditional religious leaders, with at least two such persons being traditional religious leaders;

(b) Three members appointed from nominations submitted by national museum organizations and scientific organizations; and

(c) One member appointed from a list of persons developed and consented to by all of the other members.

The Secretary may not appoint Federal officers or employees to the Committee.

Dated: February 28, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02-8575 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Benefits-Sharing Environmental Impact Statement, National Park Service

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) for the National Park Service (NPS) concerning the environmental impacts of implementing "benefits-sharing" agreements when information derived from research specimens collected from units of the National Park System results in commercial value.

SUMMARY: Pursuant to the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an Environmental Impact Statement of potential environmental impacts of implementing "benefits-sharing" agreements for research projects that use research specimens lawfully collected from units of the National Park System. NPS authorizes the collection of research specimens from units of the National Park System for qualified scientific purposes under its regulations (36 CFR 1.6 and 2.5). Occasionally, such research also results in commercial applications. "Benefits-sharing" refers to the equitable and efficient exchange of valuable research results, and in some cases, economic resources, between researchers and their institutions or companies and the NPS. Through the Federal Technology Transfer Act of 1986 and other statutes, Congress has attempted to create incentives that optimize the social, environmental and economic benefits that can result from enhancing cooperative activities between Federal and private sector research organizations. In addition, the National Parks Omnibus Management Act of 1998 (Pub. L. 105-391) specifically authorizes the negotiation of "equitable, efficient benefits-sharing arrangements" between units of the National Park System and the research community.

NPS regulations provide that a park superintendent may issue a permit to a qualifying researcher when it is determined that "public health and safety, environmental or scenic values, natural or cultural resources, scientific

research, implementation of management responsibilities, proper allocation and use of facilities, or the avoidance of conflict among visitor use activities will not be adversely impacted" (36 CFR 1.6(a)). Through a public process, this EIS will examine potential environmental impacts of various methods of implementing the provisions of law that authorize benefits-sharing agreements while ensuring the integrity of resources.

The NPS published a notice of intent in the **Federal Register** on June 25, 2001 (pages 33712–33713), to prepare an environmental assessment (EA) concerning the environmental impacts of implementing benefits-sharing agreements. Corrections to this notice were published in the **Federal Register** on July 11, 2001 (page 36368), and the scoping comment period was extended on July 27, 2001 (page 39197) through August 27, 2001. Based on public comments received during the scoping period for this EA, the NPS has decided to prepare an EIS.

If you commented during the EA scoping period (June 25–August 27, 2001) you do not need to re-submit your comments because they will be considered in the EIS. Additional comments may be submitted by any one of several methods. *You may mail comments to:* National Park Service, Benefits-Sharing Environmental Assessment, P.O. Box 168, Yellowstone National Park, WY 82190. You may also e-mail comments to BenefitsEIS@nps.gov, submit them online at www.nature.nps.gov/benefitssharing. Additional information is available online at www.nature.nps.gov/benefitssharing or by contacting: NPS Benefits Sharing Team, P.O. Box 168, Yellowstone National Park, WY, 82190; telephone 307–344–2203. NPS practice is to make comments, including the names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that NPS withhold their addresses from the record, which will be honored to the extent allowable by law. There also may be circumstances in which NPS would withhold from the record a respondent's identity, to the extent allowable by law. If you wish the NPS to withhold your name and/or address, you must state this prominently at the beginning of your comments. NPS will make all submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

DATES: Comments on the potential scope of the EIS, alternatives to be considered, impacts to be addressed, and any other relevant related issues should be submitted within 45 calendar days from the date of this notice.

For Further Information: contact Sue Mills, National Park Service Benefits Sharing Team, P.O. Box 168, Yellowstone National Park, WY 82190; telephone 307–344–2203.

Michael Soukup,

Associate Director, Natural Resources Stewardship and Science.

[FR Doc. 02–8941 Filed 4–11–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY; Correction

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the American Museum of Natural History, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

This notice corrects the minimum number of individuals reported in a Notice of Inventory Completion published October 9, 2001 (Federal Register document 01–25150, page 51459). Since publication of the original notice, a review of American Museum of Natural History documentation revealed the presence of an additional individual culturally affiliated with the same tribes listed in the original notice. Paragraphs four and eight of the October 9, 2001, notice are corrected by substituting the following two paragraphs:

In 1902, human remains representing a minimum of four individuals were

collected by Ales Hrdlicka from the vicinity of Sacaton, Pinal County, AZ, while Dr. Hrdlicka was a member of the Hyde Expedition, sponsored by the American Museum of Natural History. No known individuals were identified. The two associated funerary objects are fragments of cloth.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of five individuals of Native American ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (d)(2), the four objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; and Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.

This notice has been sent to officials of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; and Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Elaine Guthrie, Acting Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5835, before May 13, 2002. Repatriation of these human remains and associated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; and Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona may begin after that date if no additional claimants come forward.

Dated: March 5, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02-8573 Filed 4-11-02; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities; Revision of a Currently Approved; Comments Request

ACTION: 60-day notice of information collection under review; Extension of a currently approved collection; Fee waiver request.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until June 11, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Charles Adkins-Blanch, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041.

Written comments and suggestions from the public and affected agencies concerning the revision of a currently approved collection are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, technical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form:* Fee Waiver Request.

(3) *Agency form number, if any, and the applicable component of the Department of Justice Sponsoring the collection:* Form EOIR 26A, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected Public who will be asked to respond, as well as a brief abstract:* *Primary:* An alien appealing an Immigration Judge's decision. *Other:* None *Abstract:* The information collected on EOIR-26A will be used to determine whether the requisite fee for a motion or appeal will be waived due to an alien's financial situation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,500 responses are estimated annually with a average of thirty minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 750 hours annually.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: April 8, 2002.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 02-8895 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

Agency Information Collection Activities; Revision of a Currently Approved Collection; Comments Request

ACTION: 60-day notice of information collection under review; Revision of a currently approved collection; Alien's change of address form, 33/BIA Board of Immigration Appeals, 33/IC Immigration Court.

The Department of Justice (DOJ), Executive Office for Immigration

Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until June 11, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Charles Adkins-Blanch, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia, 22041.

Written comments and suggestions from the public and affected agencies concerning the revision of a currently approved collection are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, technical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(a) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form:* Alien's Change of Address Form: 33/BIA Board of Immigration Appeals and 33/IC Immigration Court.

(3) *Agency form number, if any, and the applicable component of the Department of Justice Sponsoring the collection:* Form EOIR 33/BIA, EOIR 33/IC, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:*

Primary: An alien whose immigration proceedings is statutorily required to report any change of address.

Other: None Abstract: The information on the change of address form is used by the Immigration Courts and the Board of Immigration Appeals to ascertain where to send the notice of the next administrative action or notice of any decisions which have been rendered in an alien's case.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 15,000 responses are estimated annually with an average of 15 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,750 hours annually.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 8, 2002.

Robert Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 02-8896 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review; extension of a currently approved collection; application for cancellation of removal: 42A) for certain permanent residents, and 42B) adjustment of status for certain nonpermanent residents.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until June 11, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or

associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Chuck Adkins-Blanch, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305-0470.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Cancellation of Removal:

A. 42A for Certain Permanent Residents, and

B. 42B Adjustment of Status for Certain Nonpermanent Residents:

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Numbers:* EOIR 42A, EOIR 42B. Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract: Primary:* Individual aliens determined to be removable from the United States. *Other: None. Abstract:* This information collection is necessary to determine the statutory eligibility of individual aliens who have been determined to be removable from the United States for cancellation of their removal, as well as

to provide information relevant to a favorable exercise of discretion.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 11,000 responses per year at 5 hours, 45 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 63,250 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: April 8, 2002.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 02-8897 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-30-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-day notice of information collection under review; application for nonresident alien's Mexican border crossing card; Form I-190.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 11, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Nonresident Alien's Mexican Border Crossing Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-190. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used to obtain data from an applicant for replacement lost, stole, or mutilated Mexican Border Crossing Card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 270,410 responses at 5 minutes (.083) per response.

(6) *An estimated of the total public burden (in hours) associated with the collection:* 22,444 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Suite 1600, Patrick Henry Building, Washington, DC 20530.

Dated: April 4, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02-8933 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-day notice of information collection under review; Arrival/Departure Record; Form I-94.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 11, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Arrival-Departure Record.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-94, Office of Inspections, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Documentation of alien arrival and departure to and from the United States is a part of the manifest

requirements of sections 231 and 235 of the Immigration and Nationality Act (INA) and may be evidence of registration when issued as provided by section 264 of the INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 13,924,380 responses at 4 minutes (.066) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 919,009 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: April 4, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02-8934 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-day notice of information collection under review; Nonimmigrant petition based on Blanket L Petition, Form I-129S.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments

are encouraged and will be accepted for sixty days until June 11, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-129S. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by an employer to classify employees as L-1 nonimmigrant intracompany transferees under a blanket L petition approval. The INS will use the data on this for to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250,000 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 145,750 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291,

Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW, Suite 1600, Washington, DC 20530.

Dated: April 4, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02-8935 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: 60-Day notice of information collection under review; Interagency alien witness and informant record; Form I-854.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 11, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection(s).

(2) *Title of the Form/Collection:* Interagency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-854. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. The information collection is used by law enforcement agencies to bring alien witnesses and informants to the United States is "S" nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 125 responses at 4.25 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 531 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW, Suite 1600, Washington, DC 20530.

Dated: April 4, 2002.

Richard A. Sloan,

*Department Clearance Officer, United States
Department of Justice, Immigration and
Naturalization Service.*

[FR Doc. 02-8936 Filed 4-11-02; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR part 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut

CT020001 (Mar. 1, 2002)
CT020003 (Mar. 1, 2002)
CT020004 (Mar. 1, 2002)

Volume II

District of Columbia

DC020001 (Mar. 1, 2002)
DC020003 (Mar. 1, 2002)

Maryland

MD020001 (Mar. 1, 2002)
MD020006 (Mar. 1, 2002)
MD020009 (Mar. 1, 2002)
MD020010 (Mar. 1, 2002)
MD020021 (Mar. 1, 2002)
MD020034 (Mar. 1, 2002)
MD020036 (Mar. 1, 2002)
MD020037 (Mar. 1, 2002)

MD020039 (Mar. 1, 2002)
MD020042 (Mar. 1, 2002)
MD020048 (Mar. 1, 2002)
MD020056 (Mar. 1, 2002)
MD020057 (Mar. 1, 2002)
MD020058 (Mar. 1, 2002)

Pennsylvania

PA020004 (Mar. 1, 2002)
PA020038 (Mar. 1, 2002)
PA020042 (Mar. 1, 2002)

Virginia

VA020052 (Mar. 1, 2002)
VA020078 (Mar. 1, 2002)
VA020079 (Mar. 1, 2002)
VA020085 (Mar. 1, 2002)
VA020092 (Mar. 1, 2002)
VA020099 (Mar. 1, 2002)

Volume III

Florida

FL020015 (Mar. 1, 2002)
FL020017 (Mar. 1, 2002)

Volume IV

Minnesota

MN020007 (Mar. 1, 2002)

Volume V

Missouri

MO020001 (Mar. 1, 2002)
MO020002 (Mar. 1, 2002)
MO020003 (Mar. 1, 2002)
MO020004 (Mar. 1, 2002)
MO020009 (Mar. 1, 2002)
MO020010 (Mar. 1, 2002)
MO020015 (Mar. 1, 2002)
MO020049 (Mar. 1, 2002)
MO020053 (Mar. 1, 2002)
MO020060 (Mar. 1, 2002)

Volume VI

Alaska

AK020001 (Mar. 1, 2002)

Idaho

ID020001 (Mar. 1, 2002)
ID020003 (Mar. 1, 2002)

Oregon

OR020007 (Mar. 1, 2002)

Volume VII

California

CA020002 (Mar. 1, 2002)
CA020023 (Mar. 1, 2002)
CA020025 (Mar. 1, 2002)
CA020029 (Mar. 1, 2002)
CA020030 (Mar. 1, 2002)

Nevada

NV020003 (Mar. 1, 2002)
NV020007 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are

available electronically at no cost on the Government Printing Office site at www.access.gpo.gov/davisbacon. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, This 4th day of April 2002.

Carl J. Poleskey,
Chief, Branch of Construction Wage Determinations.

[FR Doc. 02-8620 Filed 4-11-02; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (66).

Dates/Time: May 9, 2002, 8:30 am-6 pm; May 10, 2002, 8:30 am-3 pm.

Place: May 9, 2002, Stafford Building II, Room 555, 4121 Wilson Boulevard, Arlington, VA; May 10, 2002, 4201 Wilson Boulevard, Arlington, VA, Room 1235.

Type of Meeting: Open.

Contact Person: Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292-8807.

Purpose of Meeting: To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

Agenda: Briefing on current status of Directorate; Review by MPSAC of Committee of Visitors Report for The Division of Astronomical Sciences; Review by MPSAC of Committee of Visitors Report for the Division of Materials Research; Meeting of MPSAC with Divisions within MPS Directorate; Review by MPSAC of Homeland Defense Draft Report.

Summary Minutes: May be obtained from the contact person listed above.

Dated: April 8, 2002.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 02-8958 Filed 4-11-02; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-6563]

Finding of No Significant Impact Related to Approval of the Mallinckrodt C-T Project Decommissioning Plan, Part 1 Mallinckrodt Chemical, Inc. St. Louis, MO, License No. STB-401

The U.S. Nuclear Regulatory Commission (NRC) is considering approval of the Mallinckrodt C-T Project Decommissioning Plan (DP), Part 1, originally submitted to NRC on November 20, 1997, and revised on January 18, 2001, February 13, 2002, and March 8, 2002. In the DP, Mallinckrodt Chemical Inc. (Mallinckrodt) is proposing to remediate the above-grade portion of buildings, and equipment. Mallinckrodt is proposing (1) to release columbium-tantalum (C-T) project process equipment in accordance with NRC's "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material," (2) to release building surfaces in accordance with 10 CFR 20, subpart E and, (3) to release building waste material which meets the requirements of NRC Policy and Guidance Directive FC 83-23, "Termination of Byproduct, Source, and Special Nuclear Material Licenses," November 1983, in accordance with license condition 16, or future NRC regulations on clearance of materials, or under the provisions of 10 CFR 20.2002. To demonstrate compliance with these documents, Mallinckrodt has derived beta release criteria based solely on measured beta emission.

Below is a summary of the Environmental Assessment (EA) prepared by the staff to support approval of the Mallinckrodt Phase 1 DP. The complete EA is available through NRC's Public Document Room.

Environmental Assessment

Introduction

Mallinckrodt has been operating at the St. Louis Plant since 1867 producing various products including metallic oxides and salts, ammonia, and organic chemicals. From 1942 to 1957, Mallinckrodt was under contract with the Manhattan Engineering District and the Atomic Energy Commission (MED-AEC) to process uranium ore to produce uranium for development of atomic weapons. From 1961 to 1985, Mallinckrodt extracted C-T from natural ores and tin slags.

Radiological contamination at the site resulted from MED-AEC and C-T processing activities. MED-AEC contamination is being removed by the U.S. Army Corps of Engineers (USACE) under the Formerly Utilized Sites Remedial Action Program (FUSRAP). USACE developed a preferred cleanup approach for the MED-AEC contamination, based on the data and findings presented in four documents: (1) Remedial Investigation Report; (2) Baseline Risk Assessment; (3) Initial Screening of Alternatives, and (4) Feasibility Study.

Purpose and Need for the Proposed Action

Mallinckrodt has requested that NRC terminate License No. STB-401. Before the license can be terminated, NRC must be assured that the areas of the Mallinckrodt facility associated with the C-T project meet NRC's release criteria.

Mallinckrodt is planning to conduct the C-T decommissioning project in two phases. In Phase 1, Mallinckrodt will decommission buildings and equipment used during C-T production. C-T project buildings and equipment remaining on-site will be cleaned and released for unrestricted use. In Phase 2, Mallinckrodt will remediate building slabs and foundations, paved surfaces, and all subsurface materials. This EA addresses only Phase 1 of decommissioning.

Mallinckrodt has proposed a two-phase decommissioning approach. The two-phase approach is needed because:

- The facility is an operating facility with limited areas for staging decommissioning activities. Removal of buildings and equipment in Phase 1 will provide staging areas necessary for Phase 2 decommissioning.

- On-site workers have access to buildings containing residual contamination. Removal of buildings and equipment in Phase 1 reduces the potential that workers will be exposed to residual radioactive material. Further, some of the C-T process buildings have

not been used for several years, and the buildings are starting to physically deteriorate.

Proposed Action

The ultimate goal of the C-T project decommissioning is to remediate those areas of the site associated with C-T production, to the extent necessary, to terminate License STB-401. Mallinckrodt is proposing to decommission the C-T Project areas, on the site, in two phases. In Phase I, Mallinckrodt will decommission the buildings and equipment, to the extent necessary, to meet NRC's unrestricted release criteria as presented in 10 CFR part 20, Subpart E. Phase 1 remediation is expected to take approximately two years. Phase II will include the remediation, of the building slabs and foundations, paved surfaces, and all subsurface materials. Mallinckrodt will submit the DP for Phase II to the NRC for review and approval in 2003.

Mallinckrodt is proposing (1) to release C-T process equipment in accordance with NRC's "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material," (2) to release buildings in accordance with 10 CFR 20, subpart E, and (3) to release building waste material which meets the requirements of NRC Policy and Guidance Directive FC 83-23, "Termination of Byproduct, Source, and Special Nuclear Material Licenses," November 1983, in accordance with license condition 16, or future NRC regulations on clearance of materials, or under the provisions of 10 CFR 20.2002. To demonstrate compliance with these documents, Mallinckrodt has derived beta release criteria based solely on measured beta emission. Section 2.2, of the DP, provides the release criteria for equipment and materials.

Mallinckrodt's rationale for developing release criteria based on beta emission is: (1) Direct measurement of alpha particles can be unreliable if the contaminated surface is painted, (2) direct measurement of gamma concentration on equipment and building surfaces will not be representative due to significant gamma contributions from subsurface areas, and (3) the minimum detectable activity for beta will be lower than for combined beta-gamma, since background is about one-third of the combined beta-gamma background.

Alternatives to the Proposed Action

The remediation approach proposed by Mallinckrodt provides for the

systematic remediation, of the C-T process areas, at the St. Louis Plant. This approach provides Mallinckrodt the opportunity to remove C-T process building material and equipment from the site, and release usable buildings and equipment for unrestricted use. Removal of C-T process buildings from the site will provide Mallinckrodt necessary staging areas for Phase 2 remediation activities. There are two alternatives to the proposed action; (1) no action, and (2) prepare a single DP and conduct all C-T process decommissioning activities in accordance with it.

The no action alternative is not acceptable because the C-T process buildings, equipment and surrounding areas contain residual contamination exceeding NRC's release criteria. Although, the second alternative would be an acceptable decommissioning approach, this alternative does not provide Mallinckrodt the advantages discussed above.

Affected Environment

As stated in the Introduction, MED-AEC contamination at Mallinckrodt facility is being removed by USACE under FUSRAP. USACE developed a preferred cleanup approach for the MED-AEC contamination, based on the data and findings presented in four documents: (1) Remedial Investigation Report; (2) Baseline Risk Assessment; (3) Initial Screening of Alternatives, and (4) Feasibility Study.

Section 2.2, of the Feasibility Study provides an evaluation, of the affected environment, surrounding the Mallinckrodt facility. The findings in Section 2.2, of the Feasibility Study, also apply to remediation of the C-T process areas. The following issues are addressed: (1) Land use and recreational and Aesthetic resources; (2) Climatology, meteorology, and air quality; (3) Geology and soils; (4) Water resources; (5) Biological resources; (6) Threatened and endangered species; (7) Wetlands and flood plains; (8) Population and socioeconomics, and (9) Historical, archeological, and cultural resources.

Environmental Impacts

Remediation of the C-T process buildings and equipment creates a potential for radiological environmental impacts. Radiological environmental impacts that could result from remediation activities include exposure, inhalation, and ingestion hazard to workers and the public. These hazards could occur during the decontamination and demolition of buildings.

Mallinckrodt has committed to perform work activities in accordance

with a Health and Safety Program as described in Section 3 of the DP. The Health and Safety Program will consist of: (1) An Industrial Safety Program; (2) a Radiation Protection Program, and (3) an Environmental Safety Program. The Radiation Protection Program will contain controls to monitor exposures to workers. Action levels have been established based on 10 CFR 20, Appendix B. If action levels are exceeded, Mallinckrodt will take corrective action, as necessary. The Radiation Protection Program will keep exposures due to ingestion and inhalation ALARA by controlling and monitoring airborne releases in work areas, and by utilizing respiratory protection, as necessary.

Mallinckrodt will implement an Environmental Safety Program to monitor air and water effluents discharged during decommissioning. Mallinckrodt is proposing to collect air and water samples on-site, and off-site routinely to determine the extent of environmental discharges. Mallinckrodt does not anticipate the need for effluent air monitoring, since there will likely be no point sources of effluent air. However, if Mallinckrodt uses a decommissioning process exhaust ventilation system, the effluent air will be sampled and analyzed. Mallinckrodt will provide environmental monitoring stations to verify that there are no significant adverse impacts to the workers or the environment.

Mallinckrodt has committed to minimize the production of contaminated liquids. There are three potential sources of contaminated liquids: sink and shower water; decontamination fluids; and water used for dust suppression. Sink and shower water is expected to contain insignificant amounts, of radioactivity, and will be discharged into the sewer in accordance with 10 CFR part 20.2003. Aqueous waste from decontamination fluids and dust suppression containing potentially significant concentrations of radionuclides will be filtered to remove the solids, sampled and analyzed to estimate the concentration in the sewerage. The concentration will be compared with 10 CFR part 20, concentration limits, and the total inventory discharged will be calculated. All contaminated liquids will be disposed to the Metropolitan St. Louis Sewer District (MSD) following confirmation that MSD specifications for sampling, analysis, and pre-treatment have been met.

Mallinckrodt has also committed to monitor direct radiation using TLDs. TLDs will be placed at various locations around the perimeter of the restricted

area to ensure that direct radiation in unrestricted areas does not exceed the limits specified in 10 CFR 20.1301.

Mallinckrodt has established action levels for air and water effluents based on the levels provided in 10 CFR 20, Appendix B, Tables 2 and 3. The action levels for environmental air, effluent water, and sewage are 0.75, 0.6, and 0.6, of the limits, respectively. If action levels are exceeded, Mallinckrodt will take corrective actions.

Mallinckrodt has performed dose assessments to determine an occupational exposure estimate, and the dose associated with credible accident scenarios. The occupational exposure estimate for a representative worker during Phase 1 decommissioning is 43.4 mrem. The dose estimate to a maximum exposed worker as a consequence, of the worst case hypothetical accident, is less than 0.1 percent, of the annual limit of uptake (ALI), of 10 CFR part 20.

The St. Louis Plant is located in an area which is completely developed with no pre-settlement vegetation existing. Land use within a one mile radius from the site is a mixture of commercial, industrial, and residential. Commercial or industrial properties in the area include McKinley Iron Company, Thomas and Proetz Lumber company, and several railroad properties. The USACE Feasibility Study states that there was no sign of federal or state designated endangered, or threatened species present at the Mallinckrodt facility. The Feasibility Study also states that the Mallinckrodt facility does not contain any historic buildings. Further, available data indicate that there are no archeological sites in the area.

The residential population within one mile, of the site, is approximately 10,000, with most of the residences located on the opposite side of Interstate 70. Mallinckrodt estimates that approximately 14 workers will be required to Phase 1 decommissioning activities. Due to the small number of workers required for decommissioning, and the short duration of the project, this effort should have minimal socioeconomic impact on the local community.

NRC staff performed an environmental justice review of the Mallinckrodt site. The review concluded that, since Phase 1 decommissioning activities result in an insignificant risk to the public health and safety, and the human environment, then there are no environmental justice issues with this site.

Air quality and noise impacts will result from demolition of buildings and

transport of waste. Mallinckrodt will use appropriate dust control measures during building demolition. Asbestos abatement work will be performed in accordance with EPA, OSHA, State, and City regulations. These activities will be sporadic in nature and short in duration, therefore, will have minimal impact on the surrounding community and environment.

The St. Louis Plant can be serviced by road, rail, and river barge. Interstate 70 (east and west) can be accessed within one mile from the St. Louis Plant. Rail lines from the Chicago, Burlington and Quincy Railroad, the Norfolk and Western Railroad, and the St. Louis Terminal Railroad Association, transect the St. Louis Plant from north to south. Waste will be transported from the site by rail. Mallinckrodt estimates that the volume of waste to be transported will be approximately 126,000 ft³. This volume of waste will require less than 100 rail cars spread over a one year time period. Therefore, the impact of transporting waste from the site should be insignificant.

Agencies and Persons Consulted and Sources Used

Much of the information contained in this EA was taken directly from the Mallinckrodt DP and the USACE Feasibility Study. In preparation of the Feasibility Study, USACE consulted with the U.S. Fish and Wildlife Service and the State Historic Preservation Office. Since Phase 1 decommissioning activities will be occurring at the same site as USACE decommissioning activities, with a much more limited scope, NRC has utilized the input of the U.S. Fish and Wildlife Service and the State Historic Preservation Office by reference to the Feasibility Study. NRC staff provided a draft of this EA to the State of Missouri for review.

Conclusion

Radiological exposures to workers and the public will be in accordance with 10 CFR part 20 limits. NRC believes the DP contains sufficient controls to keep potential doses to workers and the public from direct exposure, airborne material, and released effluents, ALARA. The staff also believes that the remediation alternative proposed by Mallinckrodt minimizes the potential dose to workers and members of the public, and other environmental impacts.

List of References

1. Mallinckrodt Chemical, Inc., Mallinckrodt C-T Project

Decommissioning Plan (DP), Part 1, January 18, 2001.

2. U.S. Army Corps of Engineers, Proposed Plan for the St. Louis Downtown Site, April 1998.

3. U.S. Army Corps of Engineers, Feasibility Study for the St. Louis Downtown Site, April 1998.

4. NRC, Policy and Guidance Directive FC 83-23, "Termination of Byproduct, Source, and Special Nuclear Material Licenses," November 1983.

5. NRC, 10 CFR part 20, "Radiological Criteria for License Termination: Final Rule," July 1997

6. NRC, NUREG/CR-5512, "Residual Radioactive Contamination From Decommissioning," October 1992.

Finding of No Significant Impact

Pursuant to 10 CFR part 51, NRC has prepared this EA related to the approval of Mallinckrodt's DP. On the basis of this EA, NRC has concluded that this Federal action would not have any significant affect on the quality of the human environment and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

Since the conclusion of this EA is that the remediation of the C-T project areas of Mallinckrodt's St. Louis Plant represents no significant risk to the public health and safety, and the human environment, NRC concludes that there are no environmental justice issues related to remediation.

The aforementioned documents related to this proposed action are available for public inspection and copying at NRC's Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

FOR FURTHER INFORMATION CONTACT: John T. Buckley, Project Manager, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards. Telephone : (301) 415-6607.

Dated at Rockville, Maryland, this 4th day of April 2002.

For the Nuclear Regulatory Commission.

Claudia M. Craig,

*Acting Chief, Decommissioning Branch,
Division of Waste Management, Office of
Nuclear Material Safety, and Safeguards.*
[FR Doc. 02-8864 Filed 4-11-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-336]

Dominion Nuclear Connecticut, Inc.; Millstone Nuclear Power Station, Unit No. 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR-65 issued to Dominion Nuclear Connecticut, Inc. (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2 (MP2), located in Waterford, Connecticut. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the MP2 Final Safety Analysis Report (FSAR), Chapter 14, description of the Steam Generator Tube Rupture (SGTR) event. The changes are the result of incorporating a postulated loss of offsite power (LOOP) into the event analyses as well as revised assumptions and analysis methodology.

The proposed action is in accordance with the licensee's application dated December 21, 2000, as supplemented by letter dated June 29, 2001.

The Need for the Proposed Action

General Design Criterion (GDC) 17, "Electric Power Systems," of Appendix A to 10 CFR part 50, "General Design Criteria for Nuclear Power Plants" requires that fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded as a result of anticipated operational occurrences including a LOOP and that the core is cooled and containment integrity and other vital functions are maintained in the event of postulated accidents including an SGTR. Currently, the description of an SGTR in the MP2 FSAR does not include a concurrent LOOP. Therefore, the licensee submitted a revision to the MP2 FSAR to include an SGTR concurrent with a LOOP.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that issuance of the proposed amendment would not have a significant environmental impact. The proposed changes to the FSAR provide documentation of a combination of events not previously included in the

FSAR. The likelihood of an SGTR concurrent with a LOOP, along with the radiological consequences, are independent of the proposed action to revise the FSAR to include this combination of events. The analysis shows that the radiological consequences of an SGTR concurrent with a LOOP are within the limits of 10 CFR Part 100, Reactor Site Criteria, and GDC-19, Control Room.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for MP2, dated June 1973.

Agencies and Persons Consulted

On February 25, 2002, the staff consulted with the Connecticut State official, Mr. Michael Firsick of the Connecticut Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a

significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 21, 2000, as supplemented by letter dated June 29, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 8th day of April 2002.

For the Nuclear Regulatory Commission.

Richard B. Ennis, Sr.,

*Project Manager, Section 2, Project
Directorate I, Division of Licensing Project
Management, Office of Nuclear Reactor
Regulation.*

[FR Doc. 02-8865 Filed 4-11-02; 8:45 am]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Application for Reimbursement for Hospital Insurance Services in Canada; OMB 3220-0086 Under section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the Medicare program for persons covered by the railroad retirement system. Payments are provided under section 7(d)(4) of the RRA for medical services furnished in Canada to the same extent as for those furnished in the United States. However, payments for the services furnished in Canada are made from the Railroad Retirement Account rather than from the Federal Hospital Insurance Trust Fund, with the payments limited to the amount by which insurance benefits under Medicare exceed the amounts payable under Canadian Provincial plans.

Form AA-104, Application for Canadian Hospital Benefits Under Medicare—Part A, is provided by the RRB for use in claiming benefits for covered hospital services received in Canada. The form obtains information needed to determine eligibility for, and the amount of any reimbursement due the applicant. One response is requested of each respondent. Completion is required to obtain a benefit.

No changes are proposed to Form AA-104.

Number of respondents: 50.

Estimated Completion Time: 10 minutes.

Estimated annual burden hours: 8.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02-8945 Filed 4-11-02; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25512; 812-12198]

Pioneer Balanced Fund, et al.; Notice of Application

April 8, 2002.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

Applicants: Pioneer Balanced Fund, Pioneer Global Value Fund, Pioneer Variable Contracts Trust (each a Trust, collectively, the "Trusts") and Pioneer Investment Management, Inc. (the Adviser).

FILING DATES: The application was filed on July 27, 2000, and amended on March 25, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 3, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609; Applicants, 60 State Street, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Lidian Pereira, Senior Counsel, at (202) 942-0524 or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch,

450 Fifth Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

Applicants' Representations

1. The Trusts, each a Delaware business trust, are registered under the Act as open-end management investment companies. Each Trust is organized as a series investment company and offers shares of multiple series (each series, a "Fund," and together, the "Funds").¹

2. The Adviser, an indirect, majority owned subsidiary of UniCredito Italiano, S.p.A., serves as the investment adviser to each Fund and is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act").

3. Each Fund has entered into an investment advisory agreement (each an "Advisory Agreement") with the Adviser. Each Advisory Agreement has been approved by each Fund's shareholders and by a majority of the Fund's board of trustees ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Fund or the Adviser ("Independent Trustees").

4. The Advisory Agreement permits the Adviser to enter into separate investment advisory agreements ("Subadvisory Agreements") with subadvisers ("Subadvisers") to whom the Adviser may delegate responsibility for providing investment advice and making investment decisions for a Fund. Each Subadviser is an investment adviser registered under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, termination, and replacement. The Adviser compensates the Subadvisers out of the fees paid to the Adviser by the Fund.

5. Applicants request relief to permit the Adviser to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval.

¹ Applicants also request relief with respect to future series of the Trusts and any other registered open-end management investment companies and their series that: (a) Are advised by the Adviser (or any successor entity) or any person controlling, controlled by, or under common control with the Adviser (or any successor entity); (b) operate in substantially the same manner as the Funds with regard to the Adviser's responsibility to select, evaluate and supervise Subadvisers; and (c) comply with the terms and conditions in this application ("Future Funds," included in the term "Funds"). A successor entity is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All entities that currently intend to rely on the requested relief are named as applicants. If the name of a Fund contains the name of a Subadviser, it will be preceded by the name of the Adviser.

The requested relief will not extend to a Subadviser that is an "affiliated person," as defined in section 2(a)(3) of the Act, of the Fund or the Adviser, other than by reason of serving as a Subadviser to one of more of the Funds (an "Affiliated Subadviser").

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act, or from any rule thereunder, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the Funds' shareholders rely on the Adviser to select Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants also note that the Advisory Agreement will remain subject to section 15(a) of the Act and rule 18f-2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in this application, the operation of the Fund in the manner described in this application will be approved by a majority of the Fund's outstanding voting securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-

account), as defined in the Act, or by its initial shareholder, provided that, in the case of approval by the initial shareholder, the pertinent Fund's shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account) purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below.

2. Each Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight of the Board) to oversee Subadvisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the Board will be Independent Trustees, subject to the suspension of this requirement for the death, disqualification or bona fide resignation of trustees as provided in rule 10e-1 under the Act, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

4. The Adviser will not enter a Subadvisory Agreement with any Affiliated Subadviser, without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund (or if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account).

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees will make a separate finding, reflected in the affected Fund's Board minutes, that the change is in the best interests of the Fund and its shareholders (or if the Fund serves as a funding medium for any sub-account of a registered separate account, the best interests of the Fund and unitholders of any such sub-account), and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Subadviser for any Fund, the Fund shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account), will be furnished all information about the new Subadviser that would be contained in

a proxy statement, including any change in such disclosure caused by the addition of a new Subadviser. Each Fund will meet this condition by providing shareholders (or unitholders), within 90 days of the hiring of a Subadviser, with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and subject to review and approval by the Board, will: (i) Set the Fund's overall investment strategies; (ii) evaluate, select and recommend Subadviser(s) to manage all or part of a Fund's assets; (iii) monitor and evaluate the performance of Subadviser(s); (iv) ensure that Subadvisers comply with the Fund's investment objectives, policies and restrictions by, among other things, implementing procedures reasonably designed to ensure compliance; and (v) allocate and, where appropriate, reallocate a Fund's assets among its Subadvisers when a Fund has more than one Subadviser.

8. No trustee or officer of any Fund or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such person) any interest in a Subadviser except for: (i) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-8930 Filed 4-11-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25511; File No. 812-12670]

Midland National Life Insurance Company, et. al.

April 5, 2002.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order pursuant to section 6(c) of the Investment Company Act of 1940, as amended (the "Act") granting exemptions from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

Applicants: Midland National Life Insurance Company ("Midland"), Midland National Life Separate Account C (the "Midland Account"), and Sammons Securities Company, LLC ("Sammons Securities") (all collectively, the "Applicants").

SUMMARY OF APPLICATION: The Applicants hereby apply for an order of the Commission exempting them with respect to variable annuity contracts described herein (the "Contracts") and other variable annuity contracts that are substantially similar in all material respects to the contracts described herein, that Midland may issue in the future ("Future Contracts"), and any other separate accounts of Midland and its successors in interest ("Future Accounts") that support Future Contracts, and certain National Association of Securities Dealers, Inc. ("NASD") member broker-dealers which in the future, may act as principal underwriter of such contracts ("Future Underwriters"), from the provisions of sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, pursuant to section 6(c) of the Act, to the extent necessary to permit the recapture of a bonus credit (previously applied to premium payments) where the contract owner ("Owner") exercises his or her "free look" right.

FILING DATE: The application was filed on October 23, 2001, and amended and restated on January 18, 2002 and March 15, 2002. An amendment substantially conforming to this notice will be filed during the pendency of the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 30, 2002, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants: c/o Jack L. Briggs, Esq. Midland National Life Insurance Company, One Midland Plaza, Sioux Falls, SD 57193. Copy to Frederick R. Bellamy, Esq. Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mark A. Cowan, Senior Counsel, or William Kotapish, Assistant Director, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the Application. The complete Application is available for a fee from the Commission's Public Reference Branch, 450 5th Street NW, Washington, DC 20549, (202) 942-8090.

Applicants' Representations

1. Midland is a stock life insurance company. Midland was organized in 1906, in South Dakota, as a mutual life insurance company at that time named The Dakota Mutual Life Insurance Company. It was reincorporated as a stock life insurance company in 1909. The name Midland was adopted in 1925. Midland was redomesticated to Iowa in 1999. It is licensed to do business in the District of Columbia, Puerto Rico, and in all states except New York. Midland is a subsidiary of Sammons Enterprises, Inc. which has controlling or substantial stock interests in a large number of other companies engaged in the areas of insurance, corporate services, and industrial distribution.

2. Under the terms of the Contracts, the assets of the Midland Account equal to the reserves and other contract liabilities with respect to the Midland Account are not chargeable with liabilities arising out of any other business which the sponsoring company may conduct (except to the extent that assets in the Midland Account exceed the reserves and liabilities of the Midland Account). The Midland Account is comprised of investment divisions established to receive and invest net premium payments under the Contracts (the "Investment Divisions") and other annuity contracts. The income, gains and losses, realized or unrealized, from the assets allocated to each Investment Division will be credited to or charged against that Investment Division without regard to other income, gains or losses of any other Investment Division. The Midland Account meets the definition of a

"separate account" in Rule 0-1(e) under the Act.

3. The Board of Directors of Midland established the Midland Account under the insurance laws of the State of South Dakota in March 1991. The Midland Account is now governed by Iowa law. The Midland Account is registered under the Act as a unit investment trust (File No. 811-07772). The assets of the Midland Account support certain flexible premium variable annuity contracts, and interests in the Midland Account offered through such contracts have been registered under the Securities Act of 1933 ("1933 Act") on two Form N-4 Registration Statements (File Nos. 33-64016 and 333-71800).

4. Sammons Securities, an affiliate of Midland, is the principal underwriter of the Contracts. Sammons Securities is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD.

5. Each Investment Division will invest exclusively in a designated series of shares, representing an interest in a particular portfolio of one or more designated management investment companies of the series type ("Funds"). Midland reserves the right to designate the shares of another portfolio of the Funds or of other management investment companies ("Other Funds") as the exclusive investment vehicle for each new Investment Division that may be created in the future. Subject to Commission approval under section 26(c) of the Act, Applicants also reserve the right to substitute the shares of another portfolio of the Funds or of Other Funds for the portfolio previously designated as the exclusive investment vehicle for each Investment Division.

6. The Contracts are flexible premium variable annuity contracts issued by Midland through the Midland Account. Midland currently intends to market the Contract under the name "Variable Annuity III." The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both during the accumulation period, and may provide settlement or annuity payment plans on a variable basis, fixed basis, or both. The Contracts may be purchased on a non-qualified tax basis. The Contracts may also be purchased and used in connection with plans qualifying for favorable federal income tax treatment.

7. The Owner determines in the application or transmittal form for a Contract how the net premium payments will be allocated among the Investment Divisions of the Midland Account, the Fixed Account and any available dollar cost averaging options of the Fixed Account (the "Fixed

Account Options"). The Owner generally may allocate premium payments to each Investment Division and to each Fixed Account Option. The Accumulation Value will vary with the investment performance of the Investment Divisions selected, and the Owner bears the entire risk for amounts allocated to the Investment Divisions.

8. An Owner may return his or her Contract for a refund. This is called the "Free Look Right." The Free Look Right allows an Owner 10 days (or longer if required by state law) to return his or her Contract. Midland will generally return the Accumulation Value minus any premium bonus credit to the Owner, but may return the full premium payment (not including the bonus credit), if greater and required by state law. Midland will generally pay the refund within 7 days after it receives a written notification of cancellation and the returned Contract. The Contract will then be considered void.

9. An Owner may transfer Accumulation Value. Transfers out of an Investment Division generally must be for at least \$200, or the entire value of the Investment Division. Free transfers may be limited to twelve per contract year and a \$15 charge per transfer may then apply for any additional transfers.

10. The Owner may surrender the Contract or make a partial surrender from the Accumulation Value until the maturity date. If an Owner surrenders a Contract or takes a partial surrender, Midland may deduct a surrender charge to compensate it for expenses relating to sales, including commissions to registered representatives and other promotional expenses. An Owner is permitted to withdraw 10% of net premiums (premiums minus surrenders) once each Contract Year free of a surrender charge. The following chart shows the surrender charges that apply to the Contracts:

Number of years since premium payment date	Surrender charge (as a percentage of premium withdrawn)
1	7
2	7
3	6
4	5
5	4
6	3
7	2
8 or more	0

Midland currently will partially waive the surrender charge if an Owner withdraws money under the Terminal Illness or Charitable Remainder Trust riders.

11. Midland offers a Charitable Remainder Trust benefit which provides for a potential increase in the free surrender amount. Under this benefit, the free surrender amount is the greater of: (a) the Owner's Accumulation Value minus net premiums at the close of the prior business day; or (b) 10% of the Owner's net premiums at the time of the partial surrender. This benefit is only available if the Owner is a charitable remainder trust. There is no charge for this benefit.

12. Under the Contracts, Midland will pay a death benefit under certain circumstances. Midland's death benefit equals the greatest of: (a) The Accumulation Value; (b) 100% of the total net premium payments, or (c) if elected, the guaranteed minimum death benefit. The guaranteed minimum death benefit equals the greater of total premiums paid minus any surrenders accumulated at 7% per annum (limited to an additional 100% of premiums minus surrenders) or the Accumulation Value. Future Contracts may provide different death benefits. The Accumulation Value for purposes of the death benefit is calculated on the date Midland receives the later of due proof of death or the election form of how the death benefit is to be paid, or 90 days after receipt of due proof of death.

13. If an Owner elects the Bonus Credit Rider under the Contracts, then Midland will add a 4% bonus credit to each premium payment made during the first contract year. Midland will assess a daily charge during the first 7 contract years against the Owner's Accumulation Value in the Midland Account as a charge for the optional bonus credit rider. The current charge for this rider is at an annual rate of 0.60% of the Separate Account accumulation value. The guaranteed maximum level of this charge is 0.70% annually.

14. On the maturity date the Owner may take the surrender value in one lump sum or convert the surrender value into an annuity. The Owner may elect or change an annuity payment option up until thirty days before the maturity date. The first annuity payment will be made within one month after the maturity date. The Owner generally may change the maturity date, subject to limits specified in the prospectus.

15. The amount of each annuity payment under the annuity payment plans will depend on the sex (if allowed) and age of the annuitant (or annuitants) at the time the first payment is due and the payment option.

16. Midland may offer Owners dollar cost averaging programs, where Midland

will automatically transfer money from one investment option into any of the other Investment Divisions; a portfolio rebalancing program, where Midland will automatically rebalance, on a quarterly, semi-annual or annual basis, the amounts in an Owner's Investment Divisions according to his or her desired asset allocation; a fixed account earnings sweep program, where Midland will transfer, on a monthly or quarterly basis, Fixed Account interest earnings to one or more of the Investment Divisions; and a systematic withdrawal option, where an Owner may receive regular payments from his or her Contract, subject to certain limitations; or other programs.

17. Midland deducts various fees and charges from the Contracts or the Midland Account, which currently include a daily mortality and expense risk fee; an annual maintenance fee (which may be waived if the Owner's net premium exceeds a certain level); premium taxes; surrender charges (contingent deferred sales loads); and fees for optional benefits or riders.

Applicants' Legal Analysis

1. Applicants respectfully request that the Commission, pursuant to section 6(c) of the Act, grant the exemptions set forth below to permit the Applicants to recapture the bonus credit applied to premium payments when the Owner exercises his or her free look right.

2. Section 6(c) authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the contract and provisions of the Act. Because the provisions described below may be inconsistent with a recapture of a bonus credit, Applicants request exemptions for the Contracts described herein, and for Future Contracts, from sections 2(a)(32), 22(c) and 27(i)(2)(a) of the Act, and Rule 22c-1 thereunder, pursuant to Section 6(c), to the extent necessary to recapture the bonus credit applied to a premium payment in the instance described above. Applicants do not agree or concede that the proposed recapture would violate any provision of the Act or rules thereunder. Applicants seek exemptions therefrom in order to avoid any questions concerning the Contracts' compliance with the Act and rules thereunder.

3. For the reasons discussed below, Applicants assert that the recapture of the bonus credit in the circumstances

described herein is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

4. Section 27(i) provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, nor to the sponsoring insurance company and principal underwriter of such account, except as provided for in Section 27(i)(2)(A). Section 27(i)(2)(A) of the Act, in pertinent part, makes it unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract unless such contract is a redeemable security.

5. Section 2(a)(32) of the Act defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

6. To the extent that the bonus credit recapture might be seen as a discount from the net asset value, or might be viewed as resulting in the payment to an Owner of less than the proportionate share of the issuer's net assets, the bonus credit recapture would trigger the need for relief absent some exemption from the Act. Rule 6c-8 provides, in relevant part, that a registered separate account, and any depositor of such account, shall be exempt from sections 2(a)(32), 22(c), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account. However, the bonus credit recapture is not a sales load, but a recapture of a bonus credit Midland previously applied to an Owner's premium payments. Midland provides the bonus credits from its general account on a guaranteed basis. The Contracts are designed to be long-term investment vehicles. In undertaking this financial obligation, Midland contemplates that an Owner will retain a Contract over an extended period, consistent with the long-term nature of the Contracts. Midland designed its product so that it would recover its costs (including the bonus credit) over an anticipated duration while a Contract is in force. If an Owner withdraws his or her money from the Contract before this anticipated period, Midland must recapture the bonus credit in order to avoid a loss.

7. Applicants submit that the recapture of a bonus credit does not

violate section 2(a)(32) of the Act. The Applicants submit that the bonus recapture provision in the Contracts does not deprive the Owner of his or her proportionate share of the issuer's current net assets. An Owner's right to the bonus credit will vest after the free-look period has expired. Until that time, Midland retains the right and interest in the dollar amount of any unvested bonus credit amount. Thus, when Midland recaptures a bonus credit, it is only retrieving its own assets, and because an Owner's interest in the bonus credit is not vested, such Owner would not be deprived of a proportionate share of the Midland Account's assets (the issuer's current net assets) in violation of Section 2(a)(32). Therefore, such recapture does not reduce the amount of the Midland Account's current net assets an Owner would otherwise be entitled to receive. However, to avoid uncertainty as to full compliance with the Act, the Applicants request an exemption from the provisions of Sections 2(a)(32) and 27(i)(2)(A) to the extent deemed necessary to permit them to recapture the bonus credit under the Contracts and Future Contracts.

8. Section 22(c) of the Act states that the Commission may make rules and regulations applicable to registered investment companies, and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same ends as contemplated by Section 22(a). Rule 22c-1, promulgated under section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security (and a person designated in such issuer's prospectus as authorized to consummate transactions in such security, and a principal underwriter of, or dealer in, any such security) from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security.

9. As a result of a 4% bonus credit, an Owner who made a \$10,000 initial premium payment could be viewed as having an Accumulation Value of \$10,400 before any earnings accrued. Midland's addition of the bonus credit might arguably be viewed as resulting in an Owner purchasing a redeemable security for a price below the current net asset value. Further, by recapturing the bonus credit, Midland might arguably be redeeming a redeemable security for a price other than one based on the current net asset value of the Midland Account. The Applicants contend that these are not correct interpretations or applications of these

statutory and regulatory provisions. The Applicants contend that the bonus credit does not violate Section 22(c) and Rule 22c-1.

10. An Owner's interest in his or her Accumulation Value or in the Midland Account would always be offered at a price based on the net asset value next calculated after receipt of the order. The granting of a bonus credit does not reflect a reduction of that price. Instead, Midland will purchase with its own general account assets an interest in the Midland Account equal to the bonus credit. Because the bonus credit will be paid out of Midland's assets, not the Midland Account's assets, no dilution will occur as a result of the credit.

11. The recapture of the bonus credit does not involve either of the evils that the Commission intended to eliminate or reduce with Rule 22c-1. The Commission's stated purposes in adopting Rule 22c-1 were to avoid or minimize (a) dilution of the interests of other security holders and (b) speculative trading practices that are unfair to such holders. These evils were the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing allowed investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, and thereby the values of outstanding mutual fund shares were diluted.

12. The proposed recapture of the bonus credit does not pose such threat of dilution. The bonus credit recapture will not alter an Owner's net asset value. Midland will determine an Owner's surrender value under a Contract in accordance with Rule 22c-1 on a basis next computed after receipt of an Owner's request for surrender (likewise, the calculation of death benefits and annuity payment amounts will be in full compliance with the forward pricing requirement of Rule 22c-1). The amount recaptured will equal the amount of the bonus credit that Midland paid out of its general account assets. The Applicants represent that it is not administratively feasible to track the bonus credit in the Midland Account after Midland applies the credit. As a result, the asset-based charges applicable to the Midland Account will be assessed against the entire amount held in the Midland Account, including the bonus credit amount, during the time the bonus credit has not vested (during the "free look" period). Applicants state that during the free look period, the aggregate asset-based charges assessed

against an Owner's Accumulation Value will be higher than those that would be charged if the Owner's Accumulation Value did not include the bonus credit, but the increment will obviously be only a small percentage of the credit amount. On the other hand, an Owner will retain the investment benefit from the bonus credit. Although an Owner will retain any investment gain attributable to the bonus credit, Midland will determine the amount of such gain on the basis of the current net asset value of the Investment Division. Thus, no dilution will occur upon the recapture of the bonus credit.

13. Further, Applicants submit that the other harm that Rule 22c-1 was designed to address (speculative trading practices calculated to take advantage of backward pricing) will not occur as a result of Midland's recapture of the bonus credit. Variable annuities are designed for long-term investment, and by their nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c-1 was designed to prevent. More to the point, the credit recapture simply does not create the opportunity for speculative trading.

14. Rule 22c-1 and Section 22(c) should have no application to the bonus credit, as neither of the harms that Rule 22c-1 was designed to address are present in the recapture of the bonus credit. However, to avoid uncertainty as to full compliance with the Act, the Applicants request an exemption from the provisions of Section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the bonus credit under the Contracts and Future Contracts.

15. The Applicants submit that the Commission should grant the exemptions requested in this Application, even if the bonus credit described herein arguably conflicts with sections 2(a)(32), 22(c), or 27(i)(2)(A) of the Act or Rule 22c-1 thereunder. The bonus credit provisions are generally very favorable and very beneficial to Owners. The recapture provisions temper this benefit somewhat, but only if an Owner withdraws his or her money under the circumstance described herein. While there would be a small downside in a declining market where an Owner would bear any losses attributable to the bonus credit, it is the converse of the benefits an Owner would receive on the bonus credit in a rising market. As any earnings on a bonus credit applied would vest immediately with an Owner, likewise any losses on the bonus credit would also vest immediately with an Owner. The bonus credit recapture provision

does not diminish the overall value of the bonus credit.

16. Midland's recapture of the bonus credit is designed to prevent anti-selection against it. The risk of anti-selection would be that an Owner could make significant premium payments into the Contract solely in order to receive a quick profit from the credit. By recapturing a bonus credit, Midland protects itself against the risk that an Owner will make such large premium payments, receive a bonus credit, and then withdraw his or her money from the Contract under the free look provision. Midland generally protects itself from this kind of anti-selection, and recovers its costs in situations where an Owner withdraws his or her money early in the life of a Contract, by imposing a surrender charge of up to 7%. However, where an Owner withdraws his money pursuant to a "free-look" provision, Midland does not apply this charge. Midland is only seeking to recapture the bonus credit in this circumstance where it does not apply the surrender charge.

17. Midland contends that it would be inherently unfair to allow an Owner exercising the free-look privilege in a Contract to retain the bonus credit when returning the Contract for a refund after a period of only a few days (usually 10 or less). If Midland could not recapture the bonus credit, individuals might purchase a Contract with no intention of retaining it, and simply return it for a quick profit. By recapturing the bonus credit, Midland can and must prevent such individuals from doing so.

Conclusion

1. For the reasons discussed above, the Applicants submit that the bonus credit involves none of the abuses to which provisions of the Act and the rules thereunder are directed. The Owner will always retain the investment experience attributable to the bonus credit, and will retain the principal amount in all cases except under the single circumstance described herein. Further, Midland should be able to recapture such bonus credit to protect itself from investors wishing to use the Contract as a vehicle for a quick profit at Midland's expense, and to enable Midland to limit potential losses associated with such bonus credit.

2. Accordingly, Applicants request exemptions from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the Applicants to recapture the bonus credit applied to a premium payment in the circumstance described above. For the reasons set forth above, Applicants believe that the exemptions

requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and consistent with and supported by Commission precedent.

3. Applicants seek relief herein not only for themselves with respect to the support of the Contracts, but also with respect to Future Accounts or Future Contracts described herein. Applicants represent that the terms of the relief requested with respect to any Contracts or Future Contracts funded by the Midland Account or Future Accounts are consistent with the standards set forth in section 6(c) of the Act and Commission precedent. The Commission has previously granted class relief (from certain specified provisions of the Act for separate accounts that support variable annuity contracts) that is materially similar to the relief described in this Application.

4. In addition, Applicants seek relief herein with respect to Future Underwriters (*i.e.*, a class consisting of NASD member broker-dealers which may also act as principal underwriter of the Contracts and Future Contracts). The Commission has regularly granted relief to "future underwriters" that are not named, and are not affiliates of the Applicants. Applicants represent that the terms of the relief requested with respect to any Future Underwriters are consistent with the standards set forth in section 6(c) of the Act and Commission precedent.

5. Applicants state that, without the requested class relief, exemptive relief for any Future Account, Future Contract, or Future Underwriter would have to be requested and obtained separately. Applicants assert that these additional requests for exemptive relief would present no issues under the Act not already addressed herein. Applicants state that if the Applicants were to repeatedly seek exemptive relief with respect to the same issues addressed herein, investors would not receive additional protection or benefit, and investors and the Applicants could be disadvantaged by increased costs from preparing such additional requests for relief. Applicants argue that the requested class relief is appropriate in the public interest because the relief will promote competitiveness in the variable annuity market by eliminating the need for Midland to file redundant exemptive applications, thereby reducing administrative expenses and maximizing efficient use of resources. Elimination of the delay and the expense of repeatedly seeking exemptive relief would, Applicants

opine, enhance Applicants' ability to effectively take advantage of business opportunities as such opportunities arise. Applicants submit, for all the reasons stated herein, that their request for class exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that an order of the Commission including such class relief, should, therefore, be granted. Any entity that currently intends to rely on the requested exemptive order is named as an applicant. Any entity that relies upon the requested order in the future will comply with the terms and conditions contained in this Application.

6. Applicants represent that the requested exemptions are necessary and appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02-8931 Filed 4-11-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45698; File No. SR-Amex-2001-107]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto Relating to the Allocation to Specialists of Securities Admitted to Dealings on an Unlisted Trading Privileges Basis

April 5, 2002.

I. Introduction and Description of the Proposal

On December 17, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change regarding the allocation of securities admitted to dealings on an unlisted trading privileges ("UTP") basis to

Amex specialists. On February 1, 2002, the Amex filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended by Amendment No. 1, was published in the **Federal Register** on March 7, 2002.⁴ The Commission received no comments on the proposed rule change. On April 4, 2002, the Amex filed Amendment No. 2 to the proposed rule change.⁵ This order approves the proposed rule change, as amended, on an accelerated basis through April 5, 2003. In addition, the Commission is publishing notice to solicit comment on and is simultaneously approving, on an accelerated basis, Amendment No. 2 to the proposal.

II. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).⁶ Specifically, the Commission finds that approval of the proposed rule change is consistent with section 6(b)(5)⁷ of the Act because it is designed to promote just and equitable principles of trade, to remove impediments to, and, perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specialists play a crucial role in providing stability, liquidity, and continuity to the trading of securities. Among the obligations imposed upon specialists by the Exchange, and by the Act and the rules thereunder, is the maintenance of fair and orderly markets

in their designated securities.⁸ To ensure that specialists fulfill these obligations, it is important that the Exchange develop and maintain stock allocation procedures and policies that provide specialists with an initiative to strive for optimal performance. The Exchange now proposes to amend its rules to account for the allocation of securities traded pursuant to UTP.⁹

The Commission notes that the Exchange proposes to establish a special committee to allocate securities traded on a UTP basis. The special committee will consist of the Chief Executive Officer of the Exchange who shall serve as Chairman of the Committee, three members (selected from among Exchange Officials, Senior Floor Officials and Floor Governors), and three members of the Exchange's senior management as designated by the Chief Executive Officer of the Exchange. The Committee shall make its decisions by majority vote. The Chairman of the Committee may only vote to create or break a tie. The Commission believes that it is appropriate to establish a new allocation committee for securities admitted to dealings pursuant to UTP because of the unique characteristics of these securities, which should be considered in the allocation process. Further the Commission believes that the factors the allocation committee will consider in making allocation decisions should ensure that qualified firms are selected to act as specialists for securities traded pursuant to UTP.

Because the proposed rule change, as amended, institutes a new process for allocating securities that will trade pursuant to UTP to Amex specialist units and because the Commission is adopting the proposal on an accelerated basis, the Commission believes that the proposal should be approved on a pilot basis, for a one-year period ending on April 5, 2003, to ensure that the process is effective and fair. The Commission expects the Amex to report to the Commission about its experience with the new allocation process in any future proposal it files to extend the effectiveness of the proposed rule or approve it on a permanent basis.

The Commission, pursuant to section 19(b)(2) of the Act,¹⁰ finds good cause for approving the proposed rule change, as amended, on a one-year pilot basis through April 5, 2003, prior to the thirtieth day after the date of

³ See letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated January 30, 2002 ("Amendment No. 1").

⁴ Exchange Act Release No. 45488 (February 28, 2002), 67 FR 10460.

⁵ See letter from Bill Floyd-Jones, Assistant General Counsel, Amex, to Kelly McCormick-Riley, Assistant Director, Division, Commission, dated April 3, 2002 ("Amendment No. 2"). In Amendment No. 2, the Exchange deleted paragraph (e) to proposed Rule 28 because it was no longer necessary in light of Amex filing SR-Amex-2002-21, which proposes to amend Amex Rule 175(c) to permit specialists in UTP stocks to be affiliated with specialists in options overlying the same UTP stock, so long as information barriers are established and maintained between the stock and options specialist units. The Commission notes that Amex Rule 175(c) currently prohibits Amex specialists from acting as a specialist or market maker in an option overlying the stock in which the specialist is registered.

⁶ 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

⁸ See 17 CFR 240.11b-1.

⁹ The Commission notes that Amex has filed a proposed rule change relating to specialists' performance evaluation and reallocation procedures for securities admitted to dealings on an unlisted basis. See File No. Amex-2002-19.

¹⁰ 15 U.S.C. 78s(b)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

publication of notice thereof in the **Federal Register**. The Commission notes that granting accelerated approval to this proposal will allow the Amex to immediately implement a process for allocating securities that will trade pursuant to UTP to specialist units. It is necessary to allocate the UTP securities to specialist units as soon as possible so that the specialists so appointed will have ample time to prepare for Amex's upcoming trading of securities on a UTP basis.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2001-107 and should be submitted by May 3, 2002.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Amex-2001-107), as amended, is hereby approved on an accelerated basis through April 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02-8932 Filed 4-11-02; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3404]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on April 4, 2002, I find that Bath, Bell, Bourbon, Boyd, Carter, Clay, Elliott, Fleming, Greenup, Harlan, Knox, Laurel, Lawrence, Letcher, Leslie, Lewis, McCreary, Menifee, Montgomery, Morgan, Nicholas, Perry, Rowan and Whitley Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms and flooding occurring on March 17 through March 21, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 3, 2002 and for economic injury until the close of business on January 6, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Breathitt, Clark, Fayette, Harrison, Jackson, Johnson, Knott, Magoffin, Martin, Mason, Owsley, Pike, Powell, Pulaski, Robertson, Rockcastle, Scott, Wayne and Wolfe in the Commonwealth of Kentucky; Adams, Lawrence and Scioto counties in the State of Ohio; Campbell, Claiborne and Scott counties in the State of Tennessee; Lee and Wise counties in the Commonwealth of Virginia; and Wayne county in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	7.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	3.500
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	3.500

The number assigned to this disaster for physical damage is 340411. For economic injury the number is 9P1800

for Kentucky; 9P1900 for Ohio; 9P2000 for Tennessee; 9P2100 for Virginia; and 9P2200 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 5, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02-8861 Filed 4-11-02; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34002]

Alamo North Texas Railroad Corporation—Construction and Operation Exemption—Wise County, TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of availability of environmental assessment and request for comments.

SUMMARY: Alamo North Texas Railroad Corporation (Alamo North) has petitioned the Surface Transportation Board (Board) for authority to construct and operate a rail line approximately 2.25 miles in length in Wise County, Texas to serve a limestone quarry near Chico, Texas, which is operated by Alamo North's parent company, Martin Marietta Materials Southwest, Ltd. The Board's Section of Environmental Analysis (SEA) has prepared an environmental assessment (EA) for this project. Based on the information provided and the environmental analysis conducted to date, the EA preliminarily concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA recommends that, if the Board approves this project, Alamo North be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider all comments received when making its final environmental recommendations to the Board. The Board will then consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment. Comments are due by May 10, 2002.

¹¹ *Id.*

¹² 17 CFR 200.30-2(a)(12).

ADDRESSES: Comments (an original and 10 copies) regarding this EA should be submitted in writing to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, to the attention of Rini Ghosh.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, (202) 565-1539 (TDD for the hearing impaired (1-800-877-8339)). To obtain a copy of the EA, contact Da-2-Da Legal Copy Service, Suite 405, 1925 K Street, NW., Washington, DC 20006, phone (202) 293-7776 or visit the Board's website at "www.stb.dot.gov".

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,
Secretary.

[FR Doc. 02-8939 Filed 4-11-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34060]

Midwest Generation, LLC—Exemption from 49 U.S.C. 10901—for Construction in Will County, IL

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of availability of environmental assessment and request for comments.

SUMMARY: Midwest Generation, LLC (Midwest) has petitioned the Surface Transportation Board (Board) for authority to construct a rail line approximately 4,007 feet in length in Will County, Illinois to provide an alternate route for rail access to the Joliet Generating Station in Joliet, Illinois. The Board's Section of Environmental Analysis (SEA) has prepared an environmental assessment (EA) for this project. Based on the information provided and the environmental analysis conducted to date, the EA preliminarily concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA recommends that, if the Board approves this project, Midwest be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider all comments received when making its final environmental recommendations to the

Board. The Board will then consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment. Comments are due by May 10, 2002.

ADDRESSES: Comments (an original and 10 copies) regarding this EA should be submitted in writing to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423, to the attention of Rini Ghosh.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, (202) 565-1539 (TDD for the hearing impaired (1-800-877-8339)). To obtain a copy of the EA, contact Da-2-Da Legal Copy Service, Suite 405, 1925 K Street, NW, Washington, DC 20006, phone (202) 293-7776 or visit the Board's website at "www.stb.dot.gov".

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,
Secretary.

[FR Doc. 02-8940 Filed 4-11-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-565 (Sub-No. 8X)] and [STB Docket No. AB-55 (Sub-No. 608X)]

New York Central Lines, LLC—Abandonment Exemption—in Delaware County, OH and CSX Transportation, Inc.—Discontinuance of Service Exemption—in Delaware County, OH

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC to abandon and CSXT to discontinue service over approximately 1.5 miles of railroad from milepost QED 114.1 to milepost QED 115.6 in Delaware, Delaware County, OH.¹ The line traverses United States Postal Service Zip Code 43015.

¹ Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) overhead traffic will be diverted to another CSXT rail line with the construction of a track connection;² (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on May 14, 2002,³ unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁵ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 22, 2002. Petitions to reopen or requests for

² CSXT states that this track connection has not yet been constructed and that it is negotiating an agreement with the city of Delaware and the Ohio Rail Development Commission (ORDC) wherein the ORDC would contribute funds for the construction of the connection track in exchange for the closure of the five grade crossings on the line. CSXT states that it will petition the Board for approval of the construction of the connection track, which at this point is likely to be constructed on CSXT property.

³ CSXT states that the proposed consummation date of this abandonment is March 22, 2003, because this line is utilized for overhead traffic, and it does not intend to consummate the abandonment until such time as the connection track construction is complete.

⁴ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁵ Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at \$1,100. See 49 CFR 1002.2(f)(25).

public use conditions under 49 CFR 1152.28 must be filed by May 2, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 19, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1552. [TDD for the hearing impaired is available at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NYC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If

consummation has not been effected by NYC's filing of a notice of consummation by April 12, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: April 5, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-8812 Filed 4-11-02; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 5, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 13, 2002 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545-0096.

Form Number: IRS Forms 1042, 1042-S and 1042-T.

Type of Review: Extension.

Title: Form 1042: Annual Withholding Tax Return for U.S. Source Income of Foreign Persons; Form 1042-S: Foreign Person's U.S. Source of Income Subject to Withholding; and Form 1042-T: Annual Summary and Transmittal of Forms 1042-S.

Description: Form 1042 is used by withholding agents to report tax withheld at source on certain income paid to nonresident alien individuals, foreign partnerships, and foreign corporations to the IRS. Form 1042-S is used by withholding agents to report income and tax withheld to payees. A copy of each 1042-S is filed magnetically or with Form 1042 for information reporting purposes. The IRS uses the information to verify that the correct amount of tax has been withheld and paid to the United States. Form 1042-T is used by withholding agents to transmit Forms 1042-S to the IRS.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 22,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying assembling, and sending the form to the IRS
Form 1042	8 hr., 51 min.	2 hr., 31 min.	4 hr., 26 min.	32 min.
Form 1042-S .....	.....	.....	25 min.	
Form 1042-T .....	.....	.....	12 min.	

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,030,980 hour.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411-03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.
[FR Doc. 02-8853 Filed 4-11-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on April 30, 2002, of the following debt management advisory committee:

The Bond Market Association
Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by

Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9:00 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. 2, § 10(d) and Pub. L. 103-202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5

U.S.C. App. 2 § 10(d) and vested in me by Treasury Department Order No. 101-05, that the closed portions of the meeting are concerned with discussions of the issues presented to the Committee by the Secretary and recommendations of the Committee to the Secretary, pursuant to Pub. L. 103-202, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b. The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Paul Malvey, Director, Office of Market Finance at 202-622-2630.

Dated: April 8, 2002.

Brian C. Roseboro,

Assistant Secretary, Financial Markets.

[FR Doc. 02-8858 Filed 4-11-02; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6251

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6251, Alternative Minimum Tax-Individuals.

DATES: Written comments should be received on or before June 11, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622-3179, or through the internet (Larnice.Mack@irs.gov), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Alternative Minimum Tax-Individuals.

OMB Number: 1545-0227.

Form Number: 6251.

Abstract: Form 6251 is used by individuals with adjustments, tax preference items, taxable income above certain exemption amounts, or certain credits to compute the alternative minimum tax, which is added to regular tax. The information on Form 6251 is used by the IRS to verify that the taxpayer correctly figured the tax.

Current Actions: There are no changes being made to the Form 6251 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 414,106.

Estimated Time Per Respondent: 6 hrs., 16 min.

Estimated Total Annual Burden Hours: 2,596,445.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02-8965 Filed 4-11-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5309

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5309, Application for Determination of Employee Stock Ownership Plan.

DATES: Written comments should be received on or before June 11, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622-3179, or through the internet (Larnice.Mack@irs.gov), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Determination of Employee Stock Ownership Plan.

OMB Number: 1545-0284.

Form Number: 5309.

Abstract: Internal Revenue Code section 404(a) allows employers an income tax deduction for contributions to their qualified deferred compensation plans. Form 5309 is used to request an IRS determination letter about whether the plan is qualified under Code section 409 or 4975(e)(7).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 462.

Estimated Time Per Respondent: 10 hours, 6 minutes.

Estimated Total Annual Burden Hours: 4,666.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02-8966 Filed 4-11-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4563

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13(44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa.

DATES: Written comments should be received on or before June 11, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622-3179, or through the internet (Larnice.Mack@irs.gov), Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exclusion of Income for Bona Fide Residents of American Samoa.

OMB Number: 1545-0173.

Form Number: Form 4563.

Abstract: Form 4563 is used by bona fide residents of American Samoa to exclude income from sources within American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands to the extent specified in Internal Revenue Code section 931. This information is used by the IRS to determine if an individual is eligible to exclude possession source income.

Current Actions: There are no changes being made to the Form 4563 at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals and households.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hr., 49 min.

Estimated Total Annual Burden Hours: 182.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02-8967 Filed 4-11-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099-DIV.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099-DIV, Dividends and Distributions.

DATES: Written comments should be received on or before June 11, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Larnice Mack, (202) 622-3179, or through the internet (Larnice.Mack@irs.gov.), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Dividends and Distributions.

OMB Number: 1545-0110.

Form Number: Form 1099-DIV.

Abstract: Form 1099-DIV is used by the IRS to insure that dividends are properly reported as required by Internal Revenue Code section 6042, that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 111,922,150.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 29,099,759.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02-8968 Filed 4-11-02; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Agency Information Collection Activities; Proposed Revision—Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information

collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on the revision of a survey of federal savings associations about their experience with OTS.

DATES: Submit written comments on or before June 11, 2002.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, FAX Number (202) 906-6518, or e-mail to infocollection.comments@ots.treas.gov. OTS will post any comments and the related index on the OTS Internet Site at www.ots.treas.gov. In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906-5922, send an e-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906-7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Lee Lassiter, Ombudsman, (202) 906-5685, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the

OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Annual Thrift Satisfaction Survey.

OMB Number: 1550-0087.

Form Number: None.

Regulation requirement: N/A.

Description: This survey will replace the survey that is now conducted of federal savings associations (thrifts) following OTS examinations, which is approved by OMB under the title "Measurement Survey—Exam Process." The responses sought in this new survey are needed to help OTS evaluate the effectiveness of the services it provides to thrifts. The new survey will differ

from the existing survey in several ways:

(1) It will seek information on overall agency performance, rather than only on issues concerning an examination by OTS.

(2) It will be anonymous—returned to OTS in a franked envelope to avoid identifying the postal zone from which it comes.

(3) It will be sent to all thrifts annually, rather than after an examination (which could be more frequently than annually or as infrequently as once every 18 months).

(4) It will reduce respondent burden by being much shorter than the existing survey.

Type of Review: Revision.

Affected Public: Federal Savings Associations.

Estimated Number of Respondents: 300.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .25 hours.

Estimated Total Burden: 75 hours.

Clearance Officer: Sally W. Watts, (202) 906-7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: April 8, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations & Legislation.

[FR Doc. 02-8851 Filed 4-11-02; 8:45 am]

BILLING CODE 6720-01-P

Corrections

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amended Application for the St. Anthony Falls Project and Extension of Time for Comments, Recommendations, Terms and Conditions, and Prescriptions

January 11, 2002.

Correction

In notice document 02-1230 beginning on page 2431 in the issue of Thursday, January 17, 2002, make the following correction:

On page 2431, in the third column, under “*j. Deadline Date*”, “March 18, 2002” should read “60 days from date of issuance of this notice”.

[FR Doc. C2-1230 Filed 4-11-02; 8:45 am]

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45654; File No. S7-17-00]

Order Granting Temporary Exemption for Broker-Dealers from the Trade-Through Disclosure Rule

March 27, 2002.

Correction

In notice document 02-7902 appearing on page 15637, in the issue of Tuesday, April 2, 2002, make the following correction:

On page 15637, in the second column, the subject heading is corrected to read as set forth above.

[FR Doc. C2-7902 Filed 4-11-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02-AGL-01]

Proposed Establishment of Class D Airspace, Proposed Modification of Class E Airspace, Marquette, MI

Correction

In proposed rule document 02-7853 beginning on page 15502 in the issue of Tuesday, April 2, 2002, make the following corrections:

1. On page 15502, in the first column, under the **SUMMARY:** heading, in the

11th line, “carriers” should read “carrier”.

§ 71.1 [Corrected]

2. On page 15503, in the first column, § 71.1, under the heading, **AGL MI D Marquette, MI [New]**, in the fourth line, “the” should read “and”.

3. On page 15503, in the first column, § 71.1, the heading, “*Paragraph 6002 Class D airspace areas extending upward from the surface of the earth.*” should read “*Paragraph 6002 Class E airspace areas extending upward from the surface of the earth.*”.

[FR Doc. C2-7853 Filed 4-11-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01-AGL-08]

Modification of Class E Airspace; Frankfort, MI

Correction

In rule document 02-7856 appearing on page 15479, in the issue of Tuesday, April 2, 2002, make the following correction:

§ 71.1 [Corrected]

On page 15479, in the third column, § 71.1, the heading “**AGL MI E5 Frankfort, MI [Revised]**” should read “**AGL MI E5 Frankfort, MI [Revised]**”.

[FR Doc. C2-7856 Filed 4-11-02; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Friday,
April 12, 2002**

Part II

Department of Justice

Immigration and Naturalization Service

8 CFR Parts 214, 235, and 248

Requiring Change of Status From B to F-1 or M-1 Nonimmigrant Prior to Pursuing a Course of Study; Final Rule Limiting the Period of Admission for B Nonimmigrant Aliens; Proposed Rule

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Parts 214 and 248**

[INS No. 2195-02]

RIN 1115-AG60

Requiring Change of Status From B to F-1 or M-1 Nonimmigrant Prior to Pursuing a Course of Study**AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations by eliminating the current provision allowing a B-1 or B-2 nonimmigrant visitor for business or pleasure to begin attending school without first obtaining approval of a change of nonimmigrant status request from the Service. This change will enhance the Service's ability to support the national security needs of the United States and is within the Service's authority under section 248 of the Immigration and Nationality Act (Act). The amendment will ensure that no B nonimmigrant is allowed to enroll in school until the alien has applied for, and the Service has approved, a change of nonimmigrant status to that of F-1 or M-1 nonimmigrant student.

DATES: Effective date: This interim rule is effective April 12, 2002.

Comment date: Written comments must be submitted on or before June 11, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW, Room 4034, Washington, DC 20536. To ensure proper handling, please reference the INS No. 2195-02 on your correspondence. Comments may also be submitted electronically to the Service at insregs@usdoj.gov. When submitting comments electronically, please include INS No. 2195-02 in the subject heading. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, DC 20536, telephone (202) 353-8177.

SUPPLEMENTARY INFORMATION:**Background***What Is a B Nonimmigrant Alien?*

A B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B-1) or a temporary visit for pleasure (B-2). Section 101(a)(15)(B) of the Act, 8 U.S.C. 1101(a)(15)(B), defines the visitor classification as:

An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

Based on the statutory language, the Service has long held a B-1 nonimmigrant to be one seeking admission for legitimate activities of a commercial or professional nature such as meetings, conferences, or consultations in the United States in connection with the conduct of international business and commerce. A B-2 nonimmigrant is one seeking admission for activities relating to pleasure such as touring, family visits, or for purposes of receiving medical treatment.

What Is the Service Changing in This Interim Rule?

The Service is eliminating the ability of an alien admitted to the United States as a B-1 or B-2 nonimmigrant to begin attending classes without first applying to the Service, and obtaining the Service's prior approval, for a change of nonimmigrant status to that of an F or M nonimmigrant student. This rule expressly prohibits a B nonimmigrant from enrolling in a course of study or taking other actions inconsistent with B nonimmigrant status unless and until the Service has approved the B nonimmigrant's change to an appropriate student nonimmigrant status.

Why Is the Service Instituting This Change?

The terrorist attacks of September 11, 2001, highlight the need of the Service to maintain greater control over the ability of an alien to change nonimmigrant status once the alien has been admitted to the United States. This interim rule will allow the Service to fully review any request from a B nonimmigrant to change nonimmigrant status to that of full-time student before allowing the alien to enroll in a Service-approved school. The elimination of the ability of a B nonimmigrant to begin classes before receiving the Service's

approval of the change of nonimmigrant status is also consistent with the Act's requirement in section 101(a)(15)(B) that a B nonimmigrant not be a person coming to the United States for the purpose of study.

Why Is This Change Limited to B Nonimmigrants?

In the process of drafting this rule, the Service considered making its requirements (*i.e.*, that nonimmigrants obtain a student visa before being able to take courses) apply to anyone in the United States not currently in student status. Such a requirement would be broader than the rule as presently drafted, which applies just to nonimmigrants in B-1 or B-2 visitor status.

B nonimmigrants generally enter the United States for purposes of tourism or for a business trip. Pursuing a course of study is inconsistent with these purposes, and thus inconsistent with B status. However, pursuit of studies generally is consistent with most other nonimmigrant statuses, and thus such a broader rule could have unintended and overly burdensome consequences for such nonimmigrants. For some, such as J-1 au pair or an H-3 trainee, the courses might be an integral part of the program for which they obtained their status. For many dependent spouses, such as H-4s, derivatives of A or G diplomats, or NAFTA TN-2s, studies may be their only permissible pursuit while accompanying their spouse who is working in the United States. Dependent children are, in fact, expected to attend school. Even some principals in nonimmigrant status (*e.g.*, H-1Bs, L-1s) may take courses incident to status to enhance their professional development. Requiring that these individuals change to F-1 or M-1 status in order to pursue studies would eliminate their ability to attend part-time, since by statute F-1s and M-1s must be pursuing a full course of study and since a nonimmigrant is prohibited from holding more than one nonimmigrant status while in the United States.

How Does This Interim Rule Affect B-1 or B-2 Nonimmigrants Previously Admitted to the United States?

This interim rule will accommodate B-1 or B-2 nonimmigrants who have already been admitted to the United States prior to April 12, 2002. In view of the Service's prior policy, this interim rule does not prevent such aliens from starting a course of study after filing an application for change of status, or require those aliens to stop taking

classes while the Service processes the change of nonimmigrant status request.

However, this interim rule applies to all aliens who are admitted as, or change their status to, a B-1 or B-2 nonimmigrant, on or after April 12, 2002. This interim rule also applies to all current B visitors who apply for an extension of their B nonimmigrant status on or after April 12, 2002.

Request for Comments

The Service is seeking public comments regarding this interim rule. The Service requests that parties interested in commenting on the provisions contained within this rule do so on or before June 11, 2002, as the Service will not extend the comment period.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for the immediate promulgation of this rule are as follows: The rule is necessary to ensure the national security of the United States by eliminating the ability of a B nonimmigrant to enroll in school until the Service has approved a change of nonimmigrant status application filed by the prospective alien student. The previous rule allowing such enrollment prior to adjudication of the application was used by some of the September 11th terrorists to obtain flight training in the United States. Closing this loophole is essential to efforts to prevent this abuse from recurring.

There is also reasonable concern that publication of this regulation as a proposed rule, one that would not take effect until after a final rule was promulgated, could lead to the counterproductive result of a surge of entries by individuals who have no intention of going through the consular screening process overseas and who would seek admission as a B nonimmigrant while having the intent of becoming an F or M nonimmigrant student after admission to the United States.

However, this interim rule takes account of the interests of those aliens currently admitted to the United States in B nonimmigrant status. Such aliens will continue to be governed by the Service's prior policy regarding change to F or M nonimmigrant status, for the remainder of their currently-authorized B nonimmigrant admission.

Accordingly, the Service believes that advance public notice and comment on this regulation would be impracticable

and contrary to the public interest. Therefore, there is good cause under 5 U.S.C. 553(b) and (d) for dispensing with the requirements of prior notice and to make this rule effective upon the date of publication in the **Federal Register**.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies only to B nonimmigrants applying to change to either F or M nonimmigrant status. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988, Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 248

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104-208, 110 Stat. 3009-708; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

2. Section 214.2 is amended by adding and reserving paragraph (b)(6) and by adding new paragraph (b)(7) to read as follows:

§ 214.2 Special requirements for admission, extension and maintenance of status.

* * * * *

(b) * * *

(6) [Reserved]

(7) *Enrollment in a course of study prohibited.* An alien who is admitted as, or changes status to, a B-1 or B-2

nonimmigrant on or after April 12, 2002, or who files a request to extend the period of authorized stay in B-1 or B-2 nonimmigrant status on or after such date, violates the conditions of his or her B-1 or B-2 status if the alien enrolls in a course of study. Such an alien who desires to enroll in a course of study must either obtain an F-1 or M-1 nonimmigrant visa from a consular officer abroad and seek readmission to the United States, or apply for and obtain a change of status under section 248 of the Act and 8 CFR part 248. The alien may not enroll in the course of study until the Service has admitted the alien as an F-1 or M-1 nonimmigrant or has approved the alien's application under part 248 of this chapter and changed the alien's status to that of an F-1 or M-1 nonimmigrant.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

3. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184; 1258; 8 CFR part 2.

4. Section 248.1 is amended by revising paragraph (c) to read as follows:

§ 248.1 Eligibility.

* * * * *

(c) *Change of nonimmigrant classification to that of a nonimmigrant student.*

(1) Except as provided in paragraph (c)(3) of this section, a nonimmigrant applying for a change of classification as an F-1 or M-1 student is not considered ineligible for such a change solely because the applicant may have started attendance at school before the application was submitted. The district director or service center director shall deny an application for a change to classification as an M-1 student if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change of nonimmigrant classification to that of an alien temporary worker under section 101(a)(15)(H) of the Act. Furthermore, an alien may not change from

classification as an M-1 student to that of an F-1 student.

(2) [Reserved]

(3) A nonimmigrant who is admitted as, or changes status to, a B-1 or B-2 nonimmigrant on or after April 12, 2002, or who files a request to extend the period of authorized stay as a B-1 or B-2 nonimmigrant on or after such date, may not pursue a course of study at an approved school unless the Service has approved his or her application for change of status to a classification as an F-1 or M-1 student. The district director or service center director will deny the change of status if the B-1 or B-2 nonimmigrant enrolled in a course of study before filing the application for change of status or while the application is pending before the Service.

* * * * *

Dated: April 9, 2002.

James W. Ziglar,

*Commissioner, Immigration and
Naturalization Service.*

[FR Doc. 02-8926 Filed 4-9-02; 1:54 pm]

BILLING CODE 4410-10-P

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Parts 214, 235 and 248**

[INS No. 2176-01]

RIN 1115-AG43

Limiting the Period of Admission for B Nonimmigrant Aliens**AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Proposed rule.

SUMMARY: The Immigration and Naturalization Service (Service) is proposing to amend its regulations by eliminating the minimum admission period of B-2 visitors for pleasure, reducing the maximum admission period of B-1 and B-2 visitors from 1 year to 6 months, and establishing greater control over a B visitor's ability to extend status or to change status to that of a nonimmigrant student. These changes will enhance the Service's ability to support the national security needs of the United States. These regulatory modifications are within the Service's authority under sections 214(a) and 248 of the Immigration and Nationality Act (Act) and will help lessen the probability that alien visitors will establish permanent ties in the United States and thus remain in the country illegally.

DATES: Written comments must be submitted on or before May 13, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC, 20536. To ensure proper handling, please reference the INS No. 2176-01 on your correspondence. Comments may also be submitted electronically to the Service at insregs@usdoj.gov. When submitting comments electronically, please include INS No. 2176-01 in the subject heading. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 353-8177.

SUPPLEMENTARY INFORMATION:**Background***What Is a B Nonimmigrant Alien?*

A B nonimmigrant is an alien whose admission to the United States is based on a temporary visit for business (B-1) or a temporary visit for pleasure (B-2). Section 101(a)(15)(B) of the Act defines the visitor classification as:

An alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure.

Based on the statutory language, the Service has long held a B-1 nonimmigrant to be one seeking admission for legitimate activities of a commercial or professional nature such as meetings, conferences, or consultations in the United States in connection with the conduct of international business and commerce. A B-2 nonimmigrant is one seeking admission for activities relating to pleasure such as touring, family visits, or for purposes of receiving medical treatment.

Service regulations at 8 CFR 214.2(b)(1) currently provide that a B-1 or B-2 visitor may be admitted for an initial period of not more than 1 year. B nonimmigrants may request extensions of the period of admission by filing Form I-539, Application to Extend/Change Nonimmigrant Status.

What Is the Service Proposing to Change?

The Service is proposing to eliminate the minimum period of admission for a B-2 nonimmigrant visitor for pleasure, currently a 6-month admission. In place of the minimum period of admission for B-2 visitors, the Service is proposing that both B-1 and B-2 visitors will be admitted for a period of time that is fair and reasonable for the completion of the purpose of the visit.

The Service is also proposing to reduce the maximum period of admission for B-1 and B-2 visitors from 1 year to 6 months. The maximum increment of extension of stay will remain 6 months, and this 6-month maximum will apply to all B-1 and B-2 visitors.

This rule also restates explicitly the general requirement for extensions of status, to provide that an alien requesting an extension of either B-1 or B-2 status bears the burden of proving that he or she has the adequate financial resources to continue his or her

temporary stay in the United States and that he or she is maintaining an unrelinquished residence abroad.

Finally, the rule proposes to establish greater control over a B visitor's eligibility to change to a student nonimmigrant status.

Why Is the Service Proposing To Eliminate the Minimum Admission Period for a B-2 Nonimmigrant Visitor for Pleasure?

As previously noted, Service regulations at 8 CFR 214.2(b)(2) currently provide that an alien seeking admission to the United States as a B-2 visitor for pleasure will be granted a minimum 6-month period of admission. The 6-month period is granted to the alien regardless of whether the alien plans to stay in the United States for a few days or for the entire 6-month period. The Service implemented this 6-month minimum admission period many years ago to reduce filings of extensions of stays from aliens who develop a need to stay in the United States longer than the initial period of admission.

The Service views the proposal to eliminate the minimum admission period for B-2 visitors for pleasure as reasonable and within the Service's authority under section 214(a) of the Act. This proposal also comports with the Act's requirements that the Service maintain control of the alien population within the United States. This is especially important in light of the attacks of September 11, 2001.

Under this proposed rule, both B-1 visitors for business and B-2 visitors for pleasure will be granted a period of admission that accurately comports with the stated purpose of the visit. Eliminating the minimum period of admission and establishing a fair and reasonable period of admission for B-2 visitors for pleasure, as modeled on the existing policy used to determine periods of admission for B-1 visitors for business, will lessen the probability that an alien visitor will establish permanent ties in the United States and remain in the country illegally.

While inspecting Service officers will make every effort to take into account language and cultural differences when eliciting the information needed to determine a reasonable period of admission, the burden still rests with the alien to adequately establish the precise nature and purpose of the visit.

Because the vast majority of B-1 and B-2 nonimmigrants do not have a stated need to remain in the United States for more than 30 days, it is reasonable to expect that most will depart within that time frame. Accordingly, in any case

where there is any ambiguity whether a shorter or longer period of admission would be fair and reasonable under the circumstances, a B-1 or B-2 nonimmigrant should be admitted for a period of 30 days. This period is neither a minimum nor a maximum, and the inspecting Service officer will be authorized to admit a B nonimmigrant for a shorter period or for a longer period (not to exceed 6 months), depending on the circumstances and the stated purpose of the alien's visit to the United States.

Why Is the Service Proposing To Reduce the Maximum Admission Period for B-1 and B-2 Visitors From 1 Year to 6 Months?

As previously noted, Service regulations at 8 CFR 214.2(b)(1) currently provide that a B-1 visitor for business or B-2 visitor for pleasure may be admitted for a period of up to 1 year. As the attacks of September 11, 2001, demonstrated, this generous period of stay is susceptible to abuse by aliens who seek to plan and execute acts of terrorism. Virtually all B visitors with legitimate business or tourism interests are able to accomplish the purposes of their visits in less than 6 months. Accordingly, it is proposed that the maximum period of admission for B-1 and B-2 visitors be reduced from 1 year to 6 months for each admission. In addition to promoting the security the United States, this change will reduce the likelihood that an alien visitor will establish permanent ties in the United States and remain in the country illegally.

Will B Visitors Be Able To File Requests for Extensions of Stays?

Under the proposed rule, all B visitors for business or pleasure will continue to be eligible to apply for extensions of stay, but only in cases that have resulted from unexpected events (such as an event that occurs that is out of the alien's control and that prevents the alien from departing the United States), compelling humanitarian reasons, such as for emergency or continuing medical treatment, or as Service policy may direct.

In addition, this proposed rule recognizes that a few B nonimmigrants enter for specific, legitimate reasons that, by their very nature, can require a stay of longer than 6 months. Those nonimmigrants, enumerated at proposed § 214.2(b)(6), who are lawfully continuing in those activities may also apply for extension of status.

All such requests, made on Form I-539, Application to Extend/Change Nonimmigrant Status, must be timely

filed and non-frivolous, and the alien must document that he or she is maintaining an unrelinquished residence abroad and has adequate financial resources to continue the temporary stay. Documentary evidence showing ties to the alien's country of residence and possession of sufficient financial means to remain in the country for the requested period of time can include such items as current bank records and lease or real property ownership documents.

The Service believes that the vast majority of aliens seeking admission as B visitors will be able to complete their stays in the United States within the period of time granted by the inspecting Service officer. The burden will be on the arriving alien to adequately explain to the inspecting Service officer at the time of admission the precise nature of the visit so the Service officer can make a determination on the period of stay to be granted. Requests for extensions of stay only heighten the probability that alien visitors will establish permanent ties in the United States and thus remain in the country illegally.

Will the Proposed Rule Affect the Status of B-1 or B-2 Visitors Already Admitted to the United States?

The new admission procedures under this rule will not affect aliens who were admitted to the United States as B-1 or B-2 visitors for business or pleasure at any time prior to the effective date of a final rule, which will be published in the **Federal Register** at a later date. However, B-1 or B-2 nonimmigrants who were admitted to the United States before the effective date of the final rule, but who apply for an extension of nonimmigrant status on or after that effective date, will be subject to the heightened requirements for extension of stay and to the 6-month limit on such extensions.

What Changes Is the Service Proposing Regarding a B Visitor's Ability To Change Nonimmigrant Status to That of Student?

Current Service regulations at 8 CFR part 248 allow for the change of a B nonimmigrant to the status of a nonimmigrant F or M student. While the proposed rule does not alter the ability of a B nonimmigrant to change nonimmigrant status to that of a student, it does establish a requirement that the alien make this intent known when he or she initially applies for admission to the United States as either a B-1 or B-2 visitor. If the alien has already received any Forms I-20, Certificate of Eligibility for Nonimmigrant Student, from one or more approved schools,

indicating that the alien has been accepted for enrollment, the alien must also present those forms to the inspecting Service officer at the time of the application for admission as a B visitor.

The Service has long accommodated prospective alien students by allowing them to enter the United States in B nonimmigrant status and visit the campuses where the student has been admitted, and then allowing the prospective student to file Form I-539 in order to change nonimmigrant status once the student has made a decision as to which school to attend. While the Service does not intend to discontinue this accommodation, it is reasonable to expect an intending nonimmigrant student to be honest about the ultimate purpose of his or her admission when being questioned by the inspecting Service officer. This intent must be made known to the inspecting Service officer regardless of whether the alien's B visa is annotated with the words, "Prospective Student."

Therefore, the Service proposes at 8 CFR 248.1(c)(2) to require a prospective alien student to state this purpose to the inspecting Service officer, and present any Forms I-20 that the alien has received, and to require the officer to make an annotation on the alien's Form I-94, Arrival-Departure Record, that reflects the alien's intent. Aliens who file an application for change of nonimmigrant status in order to change to student status without a Form I-94 that has been annotated by an inspecting Service officer will be denied the change of nonimmigrant status. Such aliens will be required, instead, to follow the regular process to seek an F or M nonimmigrant student visa from a consular officer abroad. By implementing this change, the Service intends to gain greater control over the process by which a B nonimmigrant can change status to that of either an F or M nonimmigrant student.

The Service notes that Canadian citizens (and certain Canadian permanent residents and other aliens described in 8 CFR 212.1(a)) generally are not required to obtain nonimmigrant visas or to be issued a Form I-94 upon entry into the United States. However, the Service proposes to amend 8 CFR 235.1(f)(1)(i) to provide that prospective Canadian students who intend to enter the United States to visit schools and who intend to remain in the United States and change nonimmigrant status to that of an F or M student will be required to make this declaration when applying for admission. The prospective Canadian student will be issued a Form I-94 inscribed with a notation that

reflects the alien's intent to change to student status.

The requirement that a B visitor must have stated his or her intention as a prospective student at the time of admission in B nonimmigrant status, in order to be eligible for change of status to an F or M nonimmigrant student, will be applied only to aliens who are admitted as B visitors on or after the effective date of a final rule. Because aliens who were admitted as B visitors prior to that effective date will not have been required to state their intention as a prospective student at the time of admission, they will not be subject to that limitation if they apply for change of status to F or M status. However, any alien who applies for and is granted an extension of B nonimmigrant status after the effective date of this final rule will not be eligible for change of status to F or M status. Allowing such aliens (who would already have been present in the United States as a B visitor for many months, even one year) to apply for change of status to F or M status would be inconsistent with the basic premise of this rule, which is to allow a limited accommodation for prospective students, who have already been admitted to one or more schools, to enter the United States briefly before deciding which school at which they will enroll.

Finally, the Service takes note of a related interim rule, (published elsewhere in this issue of the **Federal Register**), which stipulates that no person who has entered the United States as a B nonimmigrant may enroll in a course of study or otherwise take action inconsistent with his or her B status unless the Service has already approved his or her application for change of status to that of an F or M nonimmigrant student. That separate rule, which takes effect upon publication, complements the provisions of this proposed rule as it relates to a change of status from B-1 or B-2 visitor status to that of an F or M nonimmigrant.

What Continuing Obligations Do All B Nonimmigrants Have During the Time They Remain in the United States?

The Service notes that, under the existing provisions of section 261(a) of the Act, an alien who remains in the United States for a period of 30 days or more (other than an A or G nonimmigrant) is subject to the requirements for registration of aliens. Nonimmigrant aliens register initially using the Form I-94, Arrival-Departure Record. However, aliens who are subject to the registration requirements are also obligated, under section 265(a) of the

Act, to notify the Service of each change of address within 10 days of such change, by submitting Form AR-11 to the Service. The obligation to notify the Service of each change of address applies to all B nonimmigrants (indeed, all nonimmigrants other than those in A or G status) who remain in the United States for more than 30 days, regardless of whether their continued stay is pursuant to their initial admission or as a result of a change or extension of status.

The change of address requirements are set forth in the existing law and regulations. Accordingly, the Service does not need to propose changes in this rule to implement them. However, the Service is restating these existing requirements here for the benefit of readers, so that aliens who apply for nonimmigrant status will be advised of them.

What Happens if a B Visitor Overstays His or Her Period of Stay?

While this proposed rule does not address the issue of nonimmigrant aliens overstaying authorized periods of stay, the Service notes that an existing law, section 222(g) of the Act, provides for the automatic voidance of a nonimmigrant visa at the conclusion of a period of stay if the alien remains in the United States longer than the period of authorized admission. All B visitors should be aware of this provision of the law and are responsible for remaining in lawful nonimmigrant status while within the United States. Under section 222(g) of the Act, a B visa (including a multiple-entry visa—a visa that is usually valid for a number of years and allows the bearer to make multiple applications for admission to the United States without having to obtain a new visa for each admission) shall be void if the alien who entered the United States as a B visitor overstays his or her authorized period of admission. Thereafter, the alien would not be able to re-apply for admission to the United States using that same visa, but would be required to seek a new B visa or other appropriate visa from a consular officer abroad.

Any nonimmigrant admitted to the United States bears the burden of maintaining legal status during the period of admission that has been granted by the inspecting Service officer. The Service cannot emphasize enough the importance of maintaining lawful status while in the United States. See section 212(a)(9)(B) of the Act for more information on the important and far-reaching implications of unlawful presence and the impact that unlawful presence may have on an alien's future

ability to reapply for a nonimmigrant visa, for admission to the United States, or for adjustment of status to that of a lawful permanent resident.

Aliens should note that the statute provides an accommodation to nonimmigrants with pending applications for extension of stay or change of status if certain requirements have been met. Extension or change of status, however, will only be granted in cases where the Service deems the request to be legitimate and to meet the new criteria specified in this rule. Such requests, made on Form I-539, must be filed prior to the expiration of the alien's authorized admission, subject to a narrow exception where the delay was caused by extraordinary circumstances beyond the control of the alien. See 8 CFR 214.1(c)(4) and 248.1(b), respectively. Also, an alien who has filed Form I-539 to request an extension of stay is expected to depart from the United States upon the expiration of the requested extension regardless of whether the alien has received a copy of the Service's decision on the application for extension of stay.

Request for Comments

The Service is seeking public comments regarding this proposed rule. The Service notes that, in view of the national security needs of the United States, public comment on this proposed rule is being limited to 30 days. The Service requests that parties interested in commenting on the proposals contained within this rule submit comments on or before May 13, 2002, as the Service will not extend the comment period.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies only to nonimmigrant aliens visiting the United States as visitors for business or pleasure. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were

deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988, Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 214

Administrative practice and procedures, Aliens, Employment.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 248

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104-208, 110 Stat. 3009-708; Public Law 106-386, 114 Stat. 1477-1480; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

2. Section 214.2 is amended by revising paragraphs (b)(1) and (b)(2) and by adding a new paragraph (b)(6), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(b) * * *

(1) *General.* Any B-1 visitor for business or B-2 visitor for pleasure may be admitted for not more than 6 months and may be granted extensions of temporary stay in increments of not more than 6 months each. Those B-1 and B-2 visitors admitted pursuant to the waiver provided at § 212.1(e) of this chapter may be admitted to and stay on Guam for a period not to exceed 15 days and are not eligible for extensions of stay.

(2) *Specific requirements for admission of B-1 and B-2 visitors.* (i) *Initial admission.* The burden is on the arriving alien to adequately explain to the inspecting Service officer the precise nature of the visit so the Service officer can make a determination on the period of stay to be granted. Any B-1 or B-2 visitor who is found otherwise admissible will be admitted for a period of time that is fair and reasonable for the completion of the stated purpose of the visit, provided that any required passport is valid as specified in section 212(a)(7)(B)(i) of the Act. If it is not clear whether a shorter or longer period would be fair and reasonable under the circumstances, in light of the stated purpose of the alien's visit, the alien will be admitted for a period of 30 days.

(ii) *Change of status to nonimmigrant student.* An alien may be admitted in B-1 or B-2 visitor status as a prospective student (that is, an alien who intends to remain in the United States and apply for change of nonimmigrant status as an F or M student at an approved school), but the alien must state this intent at the time he or she applies for admission to the United States as a B nonimmigrant. The burden is on the prospective student, applying for admission as a B-1 or B-2 visitor, to explain to the inspecting Service officer that the alien's ultimate purpose is to attend school in either F or M nonimmigrant status, whether or not the alien's B nonimmigrant visa has been annotated as a "prospective student" by a consular officer abroad. (This requirement also applies with respect to Canadian citizens and certain nationals, see § 235.1(f)(1)(i) of this chapter.) If an alien has already received any currently-valid Forms I-20 from one or more approved schools, indicating that the alien has been accepted for enrollment, the alien must also present those Forms to the inspecting Service officer at the time of the application for admission as a B visitor. The inspecting Service officer will make a notation to the alien's Form I-94 reflecting that he or she is a prospective student. See 8 CFR part 248 for a discussion of change of nonimmigrant status for B-1 or B-2 visitors to that of an F or M nonimmigrant student.

* * * * *

(6) *Requests for extensions.* (i) *Eligibility.* An alien admitted in B-1 or B-2 status may apply for an extension of stay using Form I-539, Application to Extend/Change Nonimmigrant Status. The alien bears the burden of proving that he or she has the adequate financial resources to continue his or her temporary stay in the United States and that he or she is maintaining an unrelinquished residence abroad. An extension, if granted, will be for a fair and reasonable period, not to exceed 6 months, as determined under the circumstances as established by the alien, and based on information available to the Service.

(ii) *General standards.* In general, except as the Service's publicly-stated policy may direct, the Service will grant an extension of status only in the following circumstances:

(A) The alien establishes that an unexpected circumstance (that is, a documented and significant situation or event that is out of the alien's control) prevents the alien from departing the United States at the conclusion of the granted period of admission (as noted

on the Form I-94, Arrival-Departure Record);

(B) An extension is appropriate for compelling humanitarian reasons, including but not limited to situations involving an alien's new or continued medical treatment, the need of an alien parent to stay with his or her minor child receiving medical treatment or specialized education in the United States, or the need of an alien adult to attend to an acutely ill immediate family member who is receiving medical treatment;

(C) The alien is a member of a religious denomination coming solely and temporarily to do missionary work in behalf of a religious denomination, provided that such work does not involve the selling of articles or the solicitation or acceptance of donations;

(D) The alien is establishing a new office, as provided at paragraph (l)(7)(i)(A)(3) of this section relating to intra-company transfers;

(E) The alien is the personal or domestic servant of an alien or United States citizen, as outlined at § 274a.12(c)(17)(i) and (ii) of this chapter;

(F) The alien is an employee of a foreign airline engaged in international transportation of passengers or freight, as outlined at § 274a.12(c)(17)(iii) of this chapter; or

(G) The alien owns a home in the United States and occupies that home on a seasonal or occasional basis only.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

3. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

4. Section 235.1 is amended by revising paragraph (f)(1)(i) to read as follows:

§ 235.1 Scope of examination.

* * * * *

(f) * * *

(1) * * *

(i) Any nonimmigrant alien described in § 212.1(a) of this chapter and 22 CFR 41.33 who is admitted as a visitor for business or pleasure or admitted to proceed in direct transit through the United States: *provided, however*, that a prospective student who is seeking admission as a B nonimmigrant and whose intent is to remain in the United States and change nonimmigrant status to that of an F or M nonimmigrant student is required to state such intent to the inspecting Service officer at the time of admission, to present any currently-valid Forms I-20 that the student has received from an approved school, and to complete a Form I-94;

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

5. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

6. Section 248.1 is amended by adding paragraph (c)(2) to read as follows:

§ 248.1 Eligibility.

* * * * *

(c) * * *

(2) A nonimmigrant who is admitted as a B-1 or B-2 visitor under section 101(a)(15)(B) of the Act on or after (the effective date of a final rule to be published in the **Federal Register**), may change nonimmigrant classification to that of an F or M nonimmigrant student only if the B-1 or B-2 visitor had stated such intent as a prospective student at the time he or she applied for admission to the United States as a B nonimmigrant, as provided in 8 CFR 214.2(b)(2)(ii). (This requirement also applies with respect to Canadian citizens and certain Canadian nationals, see 8 CFR 235.1(f)(1)(i).) A B nonimmigrant applying to change nonimmigrant status to that of an F or M nonimmigrant student under the provisions of § 248.3 must submit, with the application to change B nonimmigrant status, a copy of the Form I-94 that contains an annotation reflecting the alien's prospective student intent, or the application for change of status will be denied. An alien who has been granted an extension of B nonimmigrant status on or after (the effective date of a final rule to be published in the **Federal Register**) is not eligible to apply for change of status to that of an F or M nonimmigrant student.

Dated: April 9, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02-8927 Filed 4-9-02; 1:54 pm]

BILLING CODE 4410-10-P



Federal Register

**Friday,
April 12, 2002**

Part III

Department of Education

**34 CFR Part 34
Administrative Wage Garnishment;
Proposed Rule**

DEPARTMENT OF EDUCATION**34 CFR Part 34****Administrative Wage Garnishment**

AGENCY: Office of the Chief Financial Officer, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations would implement for the Department of Education the provisions for administrative wage garnishment in the Debt Collection Improvement Act of 1996 (DCIA). The DCIA authorizes Federal agencies to garnish administratively, that is, without court order, the disposable pay of an individual who is not a Federal employee to collect a delinquent nontax debt owed to the United States. These proposed regulations would implement this authority for a debt owed to the United States under a program administered by the Department of Education.

DATES: We must receive your comments on or before June 11, 2002.

ADDRESSES: Address all comments about these proposed regulations to Marian E. Currie, U.S. Department of Education, 830 First Street NE., room 41B4, Washington, DC 20202. If you prefer to send your comments through the Internet, use the following address: marian.currie@ed.gov

You must include the term "Comments on DCIA NPRM" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marian E. Currie. Telephone: (202) 377-3212 or via Internet:

marian.currie@ed.gov If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:**Invitation To Comment**

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 41B4, Union Center Plaza, 830 First Street, NE., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

These proposed regulations would implement the wage garnishment provision in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358 (Apr. 26, 1996), codified at 31 U.S.C. 3720D. Wage garnishment is a procedure by which an employer withholds amounts from the wages of an employee who is a debtor and pays those amounts to the employee's creditor in satisfaction of the debt. The DCIA authorizes a Federal agency to garnish administratively—as distinct from garnishing by court order—up to 15 percent of the disposable pay of a debtor to satisfy delinquent nontax debt owed to the United States. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise conflict with these wage garnishment procedures.

We have used administrative wage garnishment to collect defaulted loan debts under section 488A of the Higher Education Act (HEA) of 1965, as amended by section 605 of the Emergency Unemployment Compensation Act of 1991, Pub. L. 102-164, 105 Stat. 1066 (Nov. 15, 1991), codified at 20 U.S.C. 1095a. The HEA authorizes the Secretary and student

loan guarantee agencies to collect defaulted student loans by administrative garnishment up to 10 percent of a debtor's disposable pay under terms and due process provisions in almost all other respects virtually identical to those enacted in the DCIA.

The Secretary has not adopted regulations governing implementation of the HEA garnishment authority, but has followed the statutory provisions directly. Treasury Department regulations require Federal agencies that use the DCIA garnishment authority either to adopt regulations promulgated by the Treasury Department Financial Management Service (FMS) (31 CFR 285.11) or to adopt their own regulations consistent with FMS regulations. Under these proposed regulations, we would adopt regulations for the use of this DCIA authority by us (31 CFR 285.11(f)). In the future we will use the DCIA authority to collect those loans we are now collecting by means of the HEA garnishment authority.

We expect that the great majority of the debts that we would collect using the DCIA wage garnishment authority under these proposed regulations would be defaulted loans and grant overpayments arising under the HEA student financial assistance programs. We would use administrative wage garnishment under the DCIA to collect these debts in generally the same way that we have used administrative wage garnishment under HEA section 488A (20 U.S.C. 1095a) to collect defaulted loans held by the Department.

A few garnishment provisions of the DCIA differ from requirements under the HEA; two of these differences are significant. First, the DCIA authorizes garnishment of up to 15 percent of a debtor's disposable pay (31 U.S.C. 3720D(b)(1)), rather than 10 percent, as under the HEA (20 U.S.C. 1095a(a)(1)). Second, under Treasury Department regulations governing the use of DCIA garnishment, amounts deducted from a debtor's gross pay for health insurance premiums, as well as amounts required by law to be withheld by the employer, are excluded from the debtor's disposable pay (31 CFR 285.11(c)). Those amounts are not deducted in computing disposable pay under the HEA, because HEA § 488A(e) defines the term disposable pay to exclude only those amounts required by law to be withheld. (20 U.S.C. 1095a(e)).

We may also use DCIA wage garnishment under this rule to collect "administrative debts" that are not based on student loan or grant obligations, and may transfer the debt to the Treasury Department for servicing under 31 U.S.C. 3711(g)(1). We propose

to follow these rules for conducting wage garnishment to collect administrative debts, but if we transfer servicing of a debt to Treasury, wage garnishment conducted by Treasury will also be governed by these procedures.

Significant Proposed Regulations

Under the requirements of the DCIA, these proposed regulations would establish the following rules and procedures:

1. Notice

If you are a debtor, at least 30 days before we initiate garnishment action, we would send you written notice informing you of the nature and amount of the debt, our intention to collect the debt through deductions from pay, and an explanation of your rights regarding the proposed action.

2. Rights of the Debtor

We would provide you with an opportunity to inspect and copy records related to the debt, to establish a repayment agreement, and to receive a hearing concerning the existence or amount of the debt and the rate at which the garnishment order would require withholding by your employer. You may object to the garnishment on the grounds that you do not owe the debt, that you do not owe a debt in the amount stated in the notice, that you are repaying the debt under a satisfactory repayment agreement with us, or that we cannot enforce the debt by garnishment against you at the time because collection action is stayed by the automatic stay on collection imposed by bankruptcy law (11 U.S.C. 362(a)) or because you have recently been reemployed after an involuntary separation from employment and are therefore protected from garnishment for the first twelve-month period of reemployment (31 U.S.C. 3720D(b)(6)).

Before issuing a garnishment order, we would provide you with a hearing if we receive your request with a postmark within 30 days of our mailing the notice. If we did not receive your hearing request within the 30-day period, we would provide you a hearing but would not delay issuance of a garnishment order in the amount and at the rate proposed in the notice of proposed garnishment.

If you are a debtor who demonstrated that you had been involuntarily separated from employment, we, as required by the DCIA, would not garnish your wages until you had been reemployed continuously for at least 12 months. Exemption from garnishment on the basis of recent reemployment, like other grounds for not proceeding

with garnishment, is a defense you would have to establish by credible evidence.

If you've received a decision, the proposed rule would not limit your ability to file a subsequent request for a hearing. However, you would have to demonstrate with any subsequent request (1) that your financial circumstances had changed materially since the initial decision and that you thus warranted a reduction in the garnishment rate or amount; or (2) that newly submitted evidence not previously considered demonstrated that we should reconsider the initial decision.

We have limited resources to devote to hearing activities and must ensure a timely hearing to any debtor who seeks a hearing in response to a notice of proposed garnishment. Thus, in the case of a debtor who has already received a hearing, we would review a request for reconsideration and arrange for proceedings to implement that reconsideration only as resources permit. We would notify the debtor only if we agreed to reconsider the decision.

3. Financial Hardship

The DCIA, like the HEA, allows you to object to the terms of a proposed payment schedule. As with the HEA garnishment authority, we consider this provision to allow you to object to the amount of the proposed garnishment only on the ground that the garnishment would cause financial hardship to you and your dependents.

As with any other objection, you would bear the burden of proof of a claim of hardship. For you to support a claim of financial hardship, we would typically require you to complete a financial statement as part of the hearing process and to report the income and expenses on which your hardship claim rests. This statement would have to disclose the income available from all members of your household unit whose living expenses you claimed in this process. Thus, we would require you to report the amount of disposable pay and other income received by you, your spouse, and any other member of your household.

For purposes of this part, financial hardship is the inability to meet basic living expenses using the disposable pay and other income of you and your spouse and dependents. Basic living expenses are expenses incurred for goods and services necessary to the survival of your family and in amounts that are reasonable.

Drawing on a comprehensive body of empirical data, the Internal Revenue Service (IRS) has analyzed the amounts

needed to meet the various categories of necessary living expenses for family sizes of different income levels on a national, regional, and local level. Based on that data, IRS has adopted standards (the "National Standards") to use in determining the amount that delinquent taxpayers should be expected to use to pay their tax obligations.

We believe that similarly situated debtors should be held to the same levels of effort to meet their financial obligations to the taxpayer. To achieve this goal of simple fairness to debtors, we now use (for garnishment determinations made under the HEA garnishment authority) and would continue to use these standards for DCIA garnishment determinations. They would serve as an authoritative and well-established base against which to measure the reasonableness of the amounts claimed for necessary expenses by a delinquent debtor in response to a garnishment action.

If you are a debtor who claims financial hardship, we consider a necessary expense to be reasonable to the extent that the amount does not exceed the amount spent by family units of the same size and similar income, as those amounts are identified in the National Standards. If you claim expenses that exceed the National Standards, you must prove that circumstances unique to your family require the amount you have claimed for that expense.

Case law interpreting the kind of undue hardship that a debtor must prove in order to obtain a discharge of an educational loan or benefit debt in bankruptcy under 11 U.S.C. 523(a)(8) offers useful guidance in assessing financial hardship in the context of garnishment under the DCIA (and the HEA, as well). In assessing long-term undue hardship claims, that precedent discounts debtor preferences about expenses such as private schooling for family members, retirement saving, automobile ownership, vacations and entertainment, charitable contributions, and career choices. The precedent is even more persuasive when applied to weight given these preferences in the short-term hardship assessment conducted in garnishment proceedings.

The facts that may justify above-average expenses would vary from family to family, but a debtor must prove that the proposed garnishment would cause significant short-term inability to meet basic living expenses. Hardship is not mere inconvenience or even inability to satisfy lifestyle choices and financial obligations already incurred in disregard of the debt owed to the public and now collectible by

garnishment. Repayment of a debt owed to the public, in particular, debts arising from publicly-financed student financial assistance received by a debtor, is not an expense to be honored only after other expenses have been satisfied.

Hardship assessments in bankruptcy and garnishment contexts do differ regarding the period for which each assesses the claimed hardship. Undue hardship in bankruptcy looks to whether financial hardship will persist over the long term—the period over which the loan may be repaid under available options. Hardship for garnishment purposes looks only to the short term—a six-month period—after which the debtor may apply for reconsideration. A finding of financial hardship in a garnishment proceeding, therefore, does not establish or even provide persuasive support for an undue hardship claim in bankruptcy.

4. Employer's Responsibilities

If you are the employer of a delinquent debtor, we would send you a wage garnishment order directing that you pay a portion of the debtor's wages to us. By incorporating a provision of the Treasury Department regulations (31 CFR 285.11(h)), these proposed regulations would require you to certify certain payment information about the debtor.

The certification form would serve multiple purposes. First, the form would provide us with information necessary to monitor your compliance with our wage garnishment order in accordance with the requirements of the DCIA and applicable laws. The form would also provide information enabling us to calculate anticipated collection amounts to determine whether to pursue other collection tools. Finally, the form would assist you in calculating the amount you must withhold from the debtor's disposable pay. Failure to complete the certification form as required would affect your responsibility to withhold the appropriate garnishment amount within a "reasonable time" in accordance with these proposed regulations.

The DCIA authorizes us to sue an employer for amounts not properly withheld from the wages payable to the debtor. However, you would not be required to vary your normal pay cycle to comply with the garnishment order. In addition, the DCIA prohibits taking disciplinary actions against the debtor based on the fact that the debtor's wages are subject to administrative garnishment.

5. Use of Contractors

As Treasury Department regulations make clear, government agencies may not contract out "inherently governmental functions." (See Office of Management and Budget (OMB) Circular A-76.) Therefore, we cannot delegate to our contractors any "inherently governmental function" in connection with garnishment action. Consistent with 31 CFR 285.11(c), we do not delegate to our contractors "inherently governmental functions" such as ruling on a debtor's objections to garnishment, deciding to issue a garnishment order regarding an individual debtor, or causing a garnishment order to be issued regarding an individual debtor.

We do make extensive use of our collection contractors in connection with collection by garnishment. These functions may include recommending garnishment action with respect to particular debtors, receiving and reviewing for completeness objections to garnishment and requests for hearing, attempting to secure missing information needed to resolve satisfactorily several kinds of objections to garnishment, analyzing financial statements under Department guidelines to determine affordable repayment amounts, and negotiating repayment agreements with debtors. We may also use other contracted services to analyze debtor objections to garnishment and propose to our hearing official appropriate findings with respect to particular objections. However, none of these contracted services are "inherently governmental functions."

6. Multiple Garnishment Orders and Federal Limitation on Amounts Withheld

We would recognize in these proposed regulations the limitations imposed by the Consumer Credit Protection Act, 15 U.S.C. 1671-1677 (CCPA) on garnishment actions. Those limitations apply to garnishments taken under the authority of the DCIA. The CCPA establishes minimum disposable pay requirements on the wage garnishment provisions of the DCIA and of these proposed regulations. (See CCPA, Sec. 303(a)(2), codified at 15 U.S.C. 1673(a)(2) (maximum allowable garnishment)). Under § 34.19(b), the maximum amount that would be withheld under a DCIA garnishment order would be the lesser of the amount indicated in the order (up to 15 percent of the debtor's disposable pay) or the amount specified in 15 U.S.C. 1673(a)(2). The latter is the amount by which a debtor's disposable pay exceeds

an amount equivalent to 30 times the minimum wage.

These proposed regulations would also recognize that we may issue multiple garnishment orders so long as the total amount garnished does not exceed the garnishment amount permitted under 15 U.S.C. 1673(a)(2). We ordinarily do not know the amount of a debtor's disposable pay and cannot determine whether payment of the amount stated in the order would cause a greater amount to be withheld than permitted by the CCPA. Because the employer knows both the debtor's disposable pay and the amount that may be currently withheld under other garnishment orders, if any, the employer as a practical matter will be the party best able to determine the amount that may actually be withholdable to satisfy our garnishment order. The order, therefore, would direct the employer to withhold and remit the amount demanded unless to do so would—either by itself or with other withholding orders outstanding—exceed the amount permitted by the CCPA for that debtor. Therefore, the employer, not the creditor, is responsible to ensure that, with regard to that employee, the total amount withheld and paid out for all garnishment orders—including those issued under DCIA authority—does not exceed the limits imposed by the CCPA.

7. Effect of Deadlines for Completion of Actions

The DCIA establishes a number of time limits within which a debtor and a creditor agency must complete various actions. Based on experience in conducting garnishment under the HEA, we wish to clarify the consequences of failure to meet those requirements under the HEA, as well as under the DCIA. Because the applicable provisions in the two statutes are identical, we would consider the same principles in the DCIA to apply, also, to time limits established in the HEA with respect to garnishment actions.

The debtor would be required to meet any deadline established in these proposed regulations or in any extension of this deadline provided by a Department official in an individual case. Failure by the debtor to meet a deadline does not result in forfeiture of a procedural right such as the right to access to records or the right to a hearing. However, failure to meet a deadline does generally result in the garnishment process moving forward, up to and including the issuance of a garnishment order. In particular, we would provide a hearing to a debtor who makes an untimely request for a

hearing, but we would not suspend garnishment proceedings until that hearing has been conducted.

The DCIA, like its HEA counterpart, directs the creditor agency to complete any hearing within 60 days of the date on which the debtor files a request for a hearing (31 U.S.C. 3720D(c)(3)). (See 20 U.S.C. 1095a(b).) Neither statute adopts a particular consequence for failure to complete the hearing within 60 days. Therefore, consistent with well-established case law, we would not consider our failure to issue a decision within the 60-day period to invalidate a garnishment proceeding or preclude issuance of a garnishment order when we issue a decision beyond that period. *United States v. James Daniel Good Real Property*, 510 U.S. 43, 63 (1993); *United States v. Montalvo-Murillo*, 495 U.S. 711 (1990); *Brock v. Pierce County*, 476 U.S. 253 (1986).

With respect to a debtor who files a timely hearing request, because we would not issue a garnishment order until the requested hearing is completed and a decision issued, that debtor would suffer no injury if the hearing and decision are not completed within the 60-day period.

With respect to a debtor who files an untimely hearing request, that request would not suspend garnishment proceedings. Therefore, the debtor's wages could be withheld before the requested hearing could be held and a decision issued. Under these proposed regulations, we would suspend any garnishment order with respect to that debtor if the hearing is not completed and a decision issued within the 60-day period. The 60-day rule, as implemented in these proposed regulations, would thus ensure that a debtor who makes a tardy request for a hearing would suffer only a limited injury.

The proposed regulations contain a number of provisions that would have the Department take certain actions within specific time periods, such as the issuance of a garnishment order within 30 days of a hearing decision adverse to a debtor (§ 34.18(a)). Unless the proposed regulations state a specific consequence for failure to complete any action within the specified period, these provisions would not affect the validity of the action.

Executive Order 12866

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum of June 1, 1998 on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example, § 34.1 Purpose of this part.
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Although a substantial number of small entities would be subject to these regulations and to the certification requirement in these regulations, the requirements would not have a significant economic impact on these entities.

The employer of a delinquent debtor would have to certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it would not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer serves garnishment orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on that entity. An employer is not required to vary its normal pay cycle to comply with a garnishment order issued under these regulations.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Intergovernmental Review

These proposed regulations are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications. "Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed regulations in § 34.2 may have federalism implications, as defined in Executive Order 13132. We encourage State and local elected officials to review and provide comments on these proposed regulations.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/legislation/FedRegister

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

You may also view this document in text at the following site:

<http://ocfo.ed.gov/fedreg.html>
<http://www.ed.gov/news.html>

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>

(Catalog of Federal Domestic Assistance Number does not apply.)

List of Subjects in 34 CFR Part 34

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Dated: April 8, 2002.

Rod Paige,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary proposes to amend title 34 of the Code of Federal regulations by adding a new part 34 to read as follows:

PART 34—ADMINISTRATIVE WAGE GARNISHMENT

Sec.

- 34.1 Purpose of this part.
- 34.2 Scope of this part.
- 34.3 Definitions.
- 34.4 Notice of proposed garnishment.
- 34.5 Contents of a notice of proposed garnishment.
- 34.6 Rights in connection with garnishment.
- 34.7 Consideration of objection to the rate of withholding.
- 34.8 Providing a hearing.
- 34.9 Conditions for an oral hearing.
- 34.10 Conditions for a paper hearing.
- 34.11 Timely request for a hearing.
- 34.12 Request for reconsideration.
- 34.13 Conduct of a hearing.
- 34.14 Burden of proof.
- 34.15 Consequences of failure to appear for an oral hearing.
- 34.16 Issuance of the hearing decision.
- 34.17 Content of decision.
- 34.18 Issuance of the wage garnishment order.
- 34.19 Amounts to be withheld under a garnishment order.
- 34.20 Amount to be withheld under multiple garnishment orders.
- 34.21 Employer certification.
- 34.22 Employer responsibilities.
- 34.23 Exclusions from garnishment.
- 34.24 Claim of financial hardship by debtor subject to garnishment.
- 34.25 Determination of financial hardship.
- 34.26 Ending garnishment.
- 34.27 Actions by employer prohibited by law.
- 34.28 Refunds of amounts collected in error.
- 34.29 Enforcement action against employer for noncompliance with garnishment order.
- 34.30 Application of payments and accrual of interest.

Authority: 31 U.S.C. 3720D, unless otherwise noted.

§ 34.1 Purpose of this part.

This part establishes procedures the Department of Education uses to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent debt owed to the United States.

§ 34.2 Scope of this part.

(a) This part applies to collection of any financial obligation owed to the United States that arises under a program we administer.

(b) This part applies notwithstanding any provision of State law.

(c) We may compromise or suspend collection by garnishment of a debt in accordance with applicable law.

(d) We may use other debt collection remedies separately or in conjunction with administrative wage garnishment to collect a debt.

(e) To collect by offset from the salary of a Federal employee, we use the procedures in 34 CFR part 31, not those in this part.

(Authority: 31 U.S.C. 3720D)

§ 34.3 Definitions.

As used in this part, the following definitions apply:

Administrative debt means a debt that does not arise from an individual's obligation to repay a loan or an overpayment of a grant received under a student financial assistance program authorized under Title IV of the Higher Education Act.

Business day means a day Monday through Friday, unless that day is a Federal holiday.

Certificate of service means a certificate signed by an authorized official of the U.S. Department of Education (the Department) that indicates the nature of the document to which it pertains, the date we mail the document, and to whom we are sending the document.

Day means calendar day. For purposes of computation, the last day of a period will be included unless that day is a Saturday, a Sunday, or a Federal legal holiday; in that case, the last day of the period is the next business day after the end of the period.

Debt or *claim* means any amount of money, funds, or property that an appropriate official of the Department has determined an individual owes to the United States under a program we administer.

Debtor means an individual who owes a delinquent nontax debt to the United States under a program we administer.

Disposable pay. This term—

(a)(1) Means that part of a debtor's compensation for personal services, whether or not denominated as wages, from an employer that remains after the deduction of health insurance premiums and any amounts required by law to be withheld.

(2) For purposes of this part, "amounts required by law to be withheld" include amounts for

deductions such as social security taxes and withholding taxes, but do not include any amount withheld under a court order; and

(b) Includes, but is not limited to, salary, bonuses, commissions, or vacation pay.

Employer. This term—

(a) Means a person or entity that employs the services of another and that pays the latter's wages or salary;

(b) Includes, but is not limited to, State and local governments; and

(c) Does not include an agency of the Federal Government.

Financial hardship means an inability to meet basic living expenses for goods and services necessary for the survival of the debtor and his or her spouse and dependents.

Garnishment means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order.

We means the United States Department of Education.

Withholding order. (a) This term means any order for withholding or garnishment of pay issued by this Department, another Federal agency, a State or private non-profit guaranty agency, or a judicial or administrative body.

(b) For purposes of this part, the terms "wage garnishment order" and "garnishment order" have the same meaning as "withholding order."

You means the debtor.

(Authority: 31 U.S.C. 3720D)

§ 34.4 Notice of proposed garnishment.

(a) We may start proceedings to garnish your wages whenever we determine that you are delinquent in paying a debt owed to the United States under a program we administer.

(b) We start garnishment proceedings by sending you a written notice of the proposed garnishment.

(c) At least 30 days before we start garnishment proceedings, we mail the notice by first class mail to your last known address.

(d)(1) We keep a copy of a certificate of service indicating the date of mailing of the notice.

(2) We may retain this certificate of service in electronic form.

(Authority: 31 U.S.C. 3720D)

§ 34.5 Contents of a notice of proposed garnishment.

In a notice of proposed garnishment, we inform you of—

(a) The nature and amount of the debt;

(b) Our intention to collect the debt through deductions from pay until the debt and all accumulated interest,

penalties, and collection costs are paid in full; and

(c) An explanation of your rights, including those in § 34.6, and the time frame within which you may exercise your rights.

(Authority: 31 U.S.C. 3720D)

§ 34.6 Rights in connection with garnishment.

Before starting garnishment, we provide you the opportunity—

(a) To inspect and copy our records related to the debt;

(b) To enter into a written repayment agreement with us to repay the debt under terms we consider acceptable;

(c) For a hearing in accordance with § 34.8 concerning—

(1) The existence, amount, or current enforceability of the debt; and

(2) The rate at which the garnishment order will require your employer to withhold pay.

(Authority: 31 U.S.C. 3720D)

§ 34.7 Consideration of objection to the rate or amount of withholding.

(a) We consider objections to the rate or amount of withholding only if the objection rests on a claim that withholding at the proposed rate or amount would cause financial hardship to you and your dependents.

(b) We do not provide a hearing on an objection to the rate or amount of withholding if the rate or amount does not exceed the rate or amount established within the 12-month period preceding the notice of garnishment under—

(1) A repayment agreement we reached with you after a previous notice of proposed garnishment; or

(2) A hearing decision issued under this part.

(c) We do not consider an objection to the rate or amount of withholding based on a claim that by virtue of 15 U.S.C. 1673, no amount of wages are available for withholding by the employer

(Authority: 31 U.S.C. 3720D)

§ 34.8 Providing a hearing.

(a) We provide a hearing if you submit a written request for a hearing concerning the existence or amount of the debt or the rate of wage withholding.

(b) At our option the hearing may be an oral hearing under § 34.9 or a paper hearing under § 34.10.

(Authority: 31 U.S.C. 3720D)

§ 34.9 Conditions for an oral hearing.

(a) We provide an oral hearing if you—

(1) Request an oral hearing; and

(2) Show in the request a good reason to believe that we cannot resolve the

issues in dispute by review of the documentary evidence, by demonstrating that the validity of the claim turns on the credibility or veracity of witness testimony.

(b) If we determine that an oral hearing is appropriate, we notify you how to receive the oral hearing.

(c)(1) At your option, an oral hearing may be conducted either in-person or by telephone conference.

(2) We provide an in-person oral hearing with regard to administrative debts only in Washington D.C.

(3) We provide an in-person oral hearing with regard to debts based on student loan or grant obligations only at our regional service centers in Atlanta, Chicago, or San Francisco.

(4) You must bear all travel expenses you incur in connection with an in-person hearing.

(5) We bear the cost of any telephone calls we place in order to conduct an oral hearing by telephone.

(d)(1) To arrange the time and location of the oral hearing, we ordinarily attempt to contact you first by telephone call to the number you provided to us.

(2) If we are unable to contact you by telephone, we leave a message directing you to contact us within 5 business days to arrange the time and place of the hearing.

(3) If we can neither contact you directly nor leave a message with you by telephone—

(i) We notify you in writing to contact us to arrange the time and place of the hearing; or

(ii) We select a time and place for the hearing, and notify you in writing of the time and place set for the hearing.

(e) We consider you to have withdrawn the request for an oral hearing, and we will conduct the hearing as a paper hearing, if—

(1) Within 15 days of the date of a written notice to contact us, we receive no response to that notice;

(2) Within five business days of the date of a telephone message to contact us, we receive no response to that message; or

(3) You do not appear in person or by telephone at the hearing as set by agreement or by our notice.

(Authority: 31 U.S.C. 3720D)

§ 34.10 Conditions for a paper hearing.

We provide a paper hearing—

(a) At your request if we conclude that, by a review of the written record, we can resolve the issues raised by your objections; or

(b) If we determine that you have withdrawn a request for an oral hearing.

(Authority: 31 U.S.C. 3720D)

§ 34.11 Timely request for a hearing.

(a) A hearing request is timely if—

(1) You mail the request to the office designated in the garnishment notice and the request is postmarked not later than the 30th day following the date of the notice; or

(2) The designated office receives the request not later than the 30th day following the date of the garnishment notice.

(b) If we receive a timely written request from you for a hearing, we will not issue a garnishment order before we—

(1) Provide the requested hearing; and

(2) Issue a written decision on the objections you raised.

(c) If your written request for a hearing is not timely—

(1) We provide you a hearing; and

(2) We do not delay issuance of a garnishment order unless—

(i) We determine from credible representations in the request that the delay in filing the request was caused by factors over which you had no control; or

(ii) We have other good reason to delay issuing a garnishment order.

(d) If we do not complete a hearing within 60 days of an untimely request, we suspend any garnishment order until we have issued a decision.

(Authority: 31 U.S.C. 3720D)

§ 34.12 Request for reconsideration.

(a) If you have received a decision on an objection to garnishment you may file a request for reconsideration of that decision.

(b) We do not suspend garnishment merely because you have filed a request for reconsideration.

(c) We consider your request for reconsideration if we determine that—

(1) Your financial circumstances, as shown by evidence submitted with the request, have materially changed since we issued the decision so that we should reduce the amount to be garnished under the order; or

(2)(i) You submitted with the request evidence that you did not previously submit; and

(ii) The evidence demonstrates that we should reconsider your objection to the existence, amount, or enforceability of the debt.

(d)(1) If we agree to reconsider the decision, we notify you.

(2)(i) We may reconsider based on the request and supporting evidence you have presented with the request; or

(ii) We may offer you an opportunity for a hearing to present evidence.

(Authority: 31 U.S.C. 3720D)

§ 34.13 Conduct of a hearing.

(a)(1) After you request a hearing, we notify you of—

(i) The date and time of a hearing that we conduct by telephone;

(ii) The date, time, and location of an in-person oral hearing; or

(iii) The deadline for the submission of evidence for a written hearing.

(2) If you request an oral hearing, we follow the steps in § 34.9 to attempt to contact you to arrange a mutually-agreeable date and time for that hearing.

(b)(1) A hearing official conducts any type of hearing referred to in paragraph (a) of this section.

(2) The hearing official may be any qualified employee of the Department whom the Department designates to conduct the hearing.

(c)(1) The hearing official conducts any hearing provided under this section as an informal proceeding.

(2) A witness in an oral hearing must testify under oath or affirmation.

(3) The hearing official maintains a summary record of any hearing provided under this section.

(Authority: 31 U.S.C. 3720D)

§ 34.14 Burden of proof.

(a)(1) We have the burden of proving the existence and amount of a debt.

(2) We meet this burden by including in the record and making available to the debtor on request records that show that—

(i) The debt exists in the amount stated in the garnishment notice; and

(ii) The debt is currently delinquent.

(b) If you dispute the existence or amount of the debt, you must prove by a preponderance of the credible evidence that—

(1) No debt exists;

(2) The amount we claim to be owed on the debt is incorrect, or

(3) You are not delinquent with respect to the debt.

(c)(1) If you object that the proposed garnishment rate would cause financial hardship, you bear the burden of proving by a preponderance of the credible evidence that withholding the amount of wages proposed in the notice would leave you unable to meet the basic living expenses of you and your dependents.

(2) The standards for proving financial hardship are those in § 34.24.

(d)(1) If you object on the ground that applicable law bars us from collecting the debt by garnishment at this time, you bear the burden of proving the facts that would establish that claim.

(2) Examples of applicable law that may prevent collection by garnishment include the automatic stay in

bankruptcy (11 U.S.C. 362(a)), and the preclusion of garnishment action against a debtor who was involuntarily separated from employment and has been reemployed for less than a 12-month period (31 U.S.C. 3720D(b)(6)).

(e) The fact that applicable law may limit the amount that an employer may withhold from your pay to less than the amount or rate we state in the garnishment order does not bar us from issuing the order.

(Authority: 31 U.S.C. 3720D)

§ 34.15 Consequences of failure to appear for an oral hearing.

(a) If you do not appear for an in-person hearing you requested, or you do not answer a telephone call convening a telephone hearing, at the time set for the hearing, we consider you to have withdrawn your request for an oral hearing.

(b) If you do not appear for an oral hearing but you demonstrate that there was good cause for not appearing, we may reschedule the oral hearing.

(c) If you do not appear for an oral hearing you requested and we do not reschedule the hearing, we provide a paper hearing to review your objections, based on the evidence in your file and any evidence you have already provided.

(Authority: 31 U.S.C. 3720D)

§ 34.16 Issuance of the hearing decision.

(a) *Date of decision.* The hearing official issues a written opinion stating his or her decision, as soon as practicable, but not later than 60 days after the date on which we received the request for hearing.

(b) If we do not provide you with a hearing and render a decision within 60 days after we receive your request for a hearing—

(1) We do not issue a garnishment order until the hearing is held and a decision rendered; or

(2) If we have already issued a garnishment order to your employer, we suspend the garnishment order beginning on the 61st day after we receive the hearing request until we provide a hearing and issue a decision.

(Authority: 31 U.S.C. 3720D)

§ 34.17 Content of decision.

(a) The written decision includes—

(1) A summary of the facts presented;

(2) The hearing official's findings, analysis, and conclusions regarding objections raised to the existence or amount of the debt; and

(3) The rate of wage withholding under the order, if you objected that withholding the amount proposed in the

garnishment notice would cause an extreme financial hardship.

(b) The hearing official's decision is the final action of the Secretary for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

(Authority: 31 U.S.C. 3720D)

§ 34.18 Issuance of the wage garnishment order.

(a)(1) If you fail to make a timely request for a hearing, we issue a garnishment order to your employer within 30 days after the deadline for timely requesting a hearing.

(2) If you make a timely request for a hearing, we issue a withholding order within 30 days after the hearing official issues a decision to proceed with garnishment.

(b)(1) The garnishment order we issue to your employer is signed by an official of the Department designated by the Secretary.

(2) The designated official's signature may be a computer-generated facsimile.

(c)(1) The garnishment order contains only the information we consider necessary for your employer to comply with the order and for us to ensure proper credit for payments received from your employer.

(2) The order includes your name, address, and social security number, as well as instructions for withholding and information as to where your employer must send the payments.

(d)(1) We keep a copy of a certificate of service indicating the date of mailing of the order.

(2) We may create and maintain the certificate of service as an electronic record.

(Authority: 31 U.S.C. 3720D)

§ 34.19 Amounts to be withheld under a garnishment order.

(a)(1) After an employer receives a garnishment order we issue, the employer must deduct from all disposable pay of the debtor during each pay period the amount directed in the garnishment order unless this section or § 34.20 requires a smaller amount to be withheld.

(2) The amount specified in the garnishment order does not apply if other law, including this section, requires the employer to withhold a smaller amount.

(b) The employer must comply with our garnishment order by withholding the lesser of—

(1) The amount directed in the garnishment order; or—

(2) The amount specified in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment); that is, the amount by which a debtor's

disposable pay exceeds an amount equal to 30 times the minimum wage. (See 29 CFR 870.10.)

(Authority: 31 U.S.C. 3720D)

§ 34.20 Amount to be withheld under multiple garnishment orders.

If a debtor's pay is subject to several garnishment orders, the employer must comply with our garnishment order as follows:

(a) Unless other Federal law requires a different priority, the employer must pay us the amount calculated under § 34.19(b) before the employer complies with any later garnishment orders, except a family support withholding order.

(b) If an employer is withholding from a debtor's pay based on a garnishment order served on the employer before our order, or if a withholding order for family support is served on an employer at any time, the employer must comply with our garnishment order by withholding an amount that is the smaller of—

(1) The amount calculated under § 34.19(b); or

(2) An amount equal to 25 percent of the debtor's disposable pay less the amount or amounts withheld under the garnishment order or orders with priority over our order.

(c)(1) If a debtor owes more than one debt arising from a program we administer, we may issue multiple garnishment orders.

(2) The total amount withheld from the debtor's pay for orders we issue under paragraph (c)(1) of this section does not exceed the lesser of the amounts specified in the orders or the amount specified in § 34.19(b)(2).

(d) An employer may withhold and pay an amount greater than that amount in paragraphs (b) and (c) of this section if the debtor gives the employer written consent.

(Authority: 31 U.S.C. 3720D)

§ 34.21 Employer certification.

(a) Along with a garnishment order, we send to an employer a certification in a form prescribed by the Secretary of the Treasury.

(b) The employer must complete and return the certification to us within the time stated in the instructions for the form.

(c) The employer must include in the certification information about the debtor's employment status, payment frequency, and disposable pay available for withholding.

(Authority: 31 U.S.C. 3720D)

§ 34.22 Employer responsibilities.

(a)(1) Our garnishment order indicates a reasonable period of time within which an employer must start withholding under the order.

(2) The employer must promptly pay to the Department all amounts the employer withholds according to the order.

(b) The employer may follow its normal pay and disbursement cycles in complying with the garnishment order.

(c) The employer must withhold the appropriate amount from the debtor's wages for each pay period until the employer receives our notification to discontinue wage garnishment.

(d) The employer must disregard any assignment or allotment by an employee that would interfere with or prohibit the employer from complying with our garnishment order, unless that assignment or allotment was made for a family support judgment or order.

(Authority: 31 U.S.C. 3720D)

§ 34.23 Exclusions from garnishment.

(a) We do not garnish your wages if we have credible evidence that you—

(1) Were involuntarily separated from employment; and

(2) Have not yet been reemployed continuously for at least 12 months.

(b) You have the burden of informing us of the circumstances surrounding an involuntary separation from employment.

(Authority: 31 U.S.C. 3720D)

§ 34.24 Claim of financial hardship by debtor subject to garnishment.

(a) You may object to a proposed garnishment on the ground that withholding the amount or at the rate stated in the notice of garnishment would cause financial hardship to you and your dependents. (See § 34.7)

(b) You may, at any time, object that the amount or the rate of withholding which our order specifies your employer must withhold causes financial hardship.

(c)(1) We consider an objection to an outstanding garnishment order and provide you an opportunity for a hearing on your objection only after the order has been outstanding for at least six months.

(2) We may provide a hearing in extraordinary circumstances earlier than six months if you show in your request for review that your financial circumstances have substantially changed after the notice of proposed garnishment because of an event such as injury, divorce, or catastrophic illness.

(d)(1) You bear the burden of proving a claim of financial hardship by a preponderance of the credible evidence.

(2) You must prove by credible documentation—

(i) The amount of the costs incurred by you, your spouse, and any dependents, for basic living expenses; and

(ii) The income available from any source to meet those expenses.

(e)(1) We consider your claim of financial hardship by comparing:

(i) The amounts that you prove are being incurred for basic living expenses against

(ii) The amounts spent for basic living expenses by families of the same size and similar income to yours.

(2) We regard the standards published by the Internal Revenue Service under 26 U.S.C. 7122(c)(2) (the "National Standards") as establishing the average amounts spent for basic living expenses for families of the same size as, and with family incomes comparable to, your family.

(3) We accept as reasonable the amount that you prove you incur for a type of basic living expense to the extent that the amount does not exceed the amount spent for that expense by families of the same size and similar income according to the National Standards.

(4) If you claim for any basic living expense an amount that exceeds the amount in the National Standards, you must prove that the amount you claim is reasonable and necessary.

(Authority: 31 U.S.C. 3720D)

§ 34.25 Determination of financial hardship.

(a)(1) If we conclude that garnishment at the amount or rate proposed in a notice would cause you financial hardship, we reduce the amount of the proposed garnishment to an amount that we determine will allow you to meet proven basic living expenses.

(2) If a garnishment order is already in effect, we notify your employer of any change in the amount the employer must withhold or the rate of withholding under the order.

(b) If we determine that financial hardship would result from garnishment based on a finding by a hearing official or under a repayment agreement we reached with you, this determination is effective for a period not longer than six months after the date of the finding or agreement.

(c)(1) After the effective period referred to in paragraph (b) of this section, we may require you to submit current information regarding your family income and living expenses.

(2) If we conclude from a review of that evidence that we should increase

the rate of withholding or payment, we—

- (i) Notify you; and
- (ii) Provide you with an opportunity to contest the determination and obtain a hearing on the objection under the procedures in § 34.24.

(Authority: 31 U.S.C. 3720D)

§ 34.26 Ending garnishment.

(a)(1) A garnishment order we issue is effective until we rescind the order.

(2) If an employer is unable to honor a garnishment order because the amount available for garnishment is insufficient to pay any portion of the amount stated in the order, the employer must—

- (i) Notify us; and
- (ii) Comply with the order when sufficient disposable pay is available.

(b) After we have fully recovered the amounts owed by the debtor, including interest, penalties, and collection costs, we send the debtor's employer notification to stop wage withholding.

(Authority: 31 U.S.C. 3720D)

§ 34.27 Actions by employer prohibited by law.

An employer may not discharge, refuse to employ, or take disciplinary action against a debtor due to the issuance of a garnishment order under this part.

(Authority: 31 U.S.C. 3720D)

§ 34.28 Refunds of amounts collected in error.

(a) If a hearing official determines under §§ 34.16 and 34.17 that a person does not owe the debt described in our notice or that an administrative wage garnishment under this part was barred by law at the time of the collection action, we promptly refund any amount collected by means of this garnishment.

(b) Unless required by Federal law or contract, we do not pay interest on a refund.

(Authority: 31 U.S.C. 3720D)

§ 34.29 Enforcement action against employer for noncompliance with garnishment order.

(a) If an employer fails to comply with § 34.22 to withhold an appropriate amount from wages owed and payable to an employee, we may sue the employer for that amount.

(b)(1) We do not file suit under paragraph (a) of this section before we terminate action to enforce the debt as a personal liability of the debtor.

(2) However, the provision of paragraph (b)(1) may not apply if earlier filing of a suit is necessary to avoid expiration of any applicable statute of limitations.

(c)(1) For purposes of this section, termination of an action to enforce a debt occurs when we terminate collection action in accordance with the FCCS, other applicable standards, or paragraph (c)(2) of this section.

(2) We regard termination of the collection action to have occurred if we have not received for one year any payments to satisfy the debt, in whole or in part, from the particular debtor whose wages were subject to garnishment.

(Authority: 31 U.S.C. 3720D)

§ 34.30 Application of payments and accrual of interest.

We apply payments received through a garnishment in the following order—

(a) To costs incurred to collect the debt;

(b) To interest accrued on the debt at the rate established by—

(1) The terms of the obligation under which it arises; or

(2) Applicable law; and

(c) To outstanding principal of the debt.

(Authority: 31 U.S.C. 3720D)

[FR Doc. 02-8969 Filed 4-11-02; 8:45 am]

BILLING CODE 4000-01-P



Federal Register

**Friday,
April 12, 2002**

Part IV

The President

**Proclamation 7539—National D.A.R.E.
Day, 2002**

Presidential Documents

Title 3—

Proclamation 7539 of April 10, 2002

The President

National D.A.R.E. Day, 2002

By the President of the United States of America

A Proclamation

Illegal drugs are the enemy of ambition and hope, destroying individual lives and undermining the health of our communities. In addition to the tragic consequences of drug use for Americans and their families, the drug trade supports terrorist networks that threaten our country and our allies around the world. When we fight the war on drugs, we also fight the war on terror.

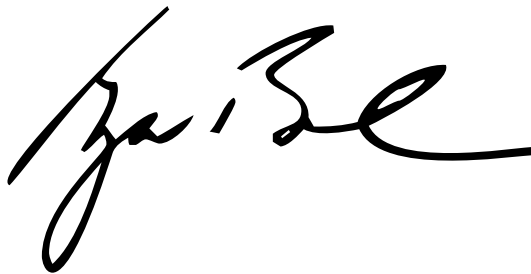
The Drug Abuse Resistance Education (D.A.R.E.) curriculum plays an important role in helping our young people understand the many reasons to avoid drugs. D.A.R.E. is a series of lessons, taught by specially-trained police officers, that encourages students to live healthy, drug-free lives. According to the University of Akron Institute for Health and Social Policy, the program operates in 80 percent of our school districts, reaching 26 million young people in America each year. In addition to promoting the right decisions about drugs, D.A.R.E. helps build relationships among parents, teachers, law enforcement officers, and others interested in preventing drug use in their communities.

My Administration is committed to keeping the fight against drugs among our Nation's top priorities. I have proposed new goals for our country, including a 10 percent reduction in teenage and adult drug use over the next 2 years, and a 25 percent reduction over 5 years. My National Drug Control Strategy is a community-based approach, incorporating three core principles: (1) stopping drug use before it starts; (2) healing America's drug users; and (3) disrupting the market for drugs in our country. In addition, my 2003 budget proposes \$19.2 billion for drug control. This includes \$3.8 billion for drug treatment and research, an increase of more than 6 percent over 2002.

Drugs attack everything that is best about our country, robbing Americans, young and old, and their families of dignity and character. Today, we recognize D.A.R.E. as a critical part in our effort to teach young people how to avoid drug use and the devastating effects that drugs can inflict upon their health and on their future.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 11, 2002, as National D.A.R.E. Day. I call upon youth, parents, educators, and all Americans to observe this day by joining the fight against drugs in your communities. I also encourage our citizens to express appreciation for the law enforcement officers, volunteers, and others who work to help young people avoid the dangers of drug use.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

A handwritten signature in black ink, appearing to read "George W. Bush", written in a cursive style.

[FR Doc. 02-9174

Filed 4-11-02; 10:47 am]

Billing code 3195-01-P

Reader Aids

Federal Register

Vol. 67, No. 71

Friday, April 12, 2002

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-523-5227**

Laws **523-5227**

Presidential Documents

Executive orders and proclamations **523-5227**

The United States Government Manual **523-5227**

Other Services

Electronic and on-line services (voice) **523-3447**

Privacy Act Compilation **523-3187**

Public Laws Update Service (numbers, dates, etc.) **523-6641**

TTY for the deaf-and-hard-of-hearing **523-5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: <http://www.access.gpo.gov/nara>

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: <http://www.nara.gov/fedreg>

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <http://listserv.access.gpo.gov> and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings)*; then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://hydra.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, APRIL

15333-15462.....	1
15463-15706.....	2
15707-16010.....	3
16011-16284.....	4
16285-16626.....	5
16627-16968.....	8
16969-17278.....	9
17279-17602.....	10
17603-17904.....	11
17905-18084.....	12

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7536.....	17599
7537.....	17601
7538.....	17905
7539.....	18083

5 CFR

410.....	15463
550.....	15463
551.....	15463
630.....	15463
1600.....	17603
1650.....	17603

7 CFR

400.....	16285
401.....	16285
403.....	16285
405.....	16285
406.....	16285
409.....	16285
414.....	16285
415.....	16285
416.....	16285
422.....	16285
425.....	16285
430.....	16285
433.....	16285
435.....	16285
437.....	16285
441.....	16285
443.....	16285
445.....	16285
446.....	16285
447.....	16285
450.....	16285
451.....	16285
454.....	16285
455.....	16285
456.....	16285
458.....	16285
916.....	16286
917.....	16286
989.....	15707
1210.....	17907
1280.....	17848
1703.....	16011
1714.....	16969
3565.....	16969
Proposed Rules:	
500.....	17301
905.....	15339
927.....	15747
1205.....	15495
1219.....	17018
1710.....	17018

8 CFR

214.....	18062
248.....	18062
286.....	15333

Proposed Rules:

214.....	18065
235.....	18065
248.....	18065
286.....	15753

9 CFR

53.....	17605
94.....	15334
113.....	15711

Proposed Rules:

Ch. III.....	15501
113.....	16327

10 CFR

20.....	16298
---------	-------

Proposed Rules:

50.....	16654
170.....	17490
171.....	17490
430.....	17304
710.....	16061
824.....	15339

12 CFR

3.....	16971
208.....	16971
225.....	16971
226.....	16980
264a.....	15335
325.....	16971
567.....	16971
609.....	16627
611.....	17907
614.....	17907
620.....	16627

Proposed Rules:

563b.....	17230
574.....	17230
575.....	17230

13 CFR

Proposed Rules:

121.....	16063, 17020
----------	--------------

14 CFR

Ch. VI.....	17258
39.....	15468, 15470, 15472, 15473, 15475, 15476, 15714, 15717, 16011, 16983, 16987, 16991, 16994, 17279, 17917, 17923, 17929, 17931, 17934
71.....	15478, 15479, 18059
97.....	16013, 16014
1300.....	17258
1310.....	17258

Proposed Rules:

25.....	16329, 16656
39.....	15755, 15758, 15760, 15762, 15763, 16064, 16067, 16069, 16330, 16331, 16333, 16335, 17305, 17306

71 .....15502, 15503, 15504	31 CFR	51 .....17954	2 .....16683, 17038
382 .....17308	Ch. V .....16308	52 .....15345, 16669, 17317, 17669, 17954, 17955	25 .....16347
16 CFR	210 .....17896	55 .....17955	52 .....16347
305 .....17936	32 CFR	62 .....17321, 17961	61 .....17036
Proposed Rules:	199 .....15721	63 .....15510, 15674, 16154, 16343, 16625, 17492	69 .....17036
310 .....15767	326 .....17616	70 .....15767	73 .....15768, 15769, 16350, 16351, 16673, 16706, 17041, 17669, 17670, 17963
18 CFR	505 .....17618	81 .....17955	74 .....16683
Proposed Rules:	806b .....17619	96 .....17954	80 .....16683
Ch. 1 .....16071	935 .....16997	97 .....17954	90 .....16351, 16683
19 CFR	Proposed Rules:	122 .....17122	97 .....16683
181 .....15480	199 .....17948	123 .....17122	
191 .....16634	33 CFR	124 .....17122	48 CFR
Proposed Rules:	100 .....17621, 17622	125 .....17122	1823 .....17016
141 .....16664	Proposed Rules:	180 .....16073	1836 .....17016
142 .....16664	100 .....17665	228 .....15348	1852 .....17016
21 CFR	117 .....16016	721 .....16345	Proposed Rules:
173 .....15719	165 .....15484, 15744, 16016, 17284, 17667	1603 .....16670	27 .....17278
201 .....16304	Proposed Rules:	41 CFR	52 .....17278
330 .....16304	147 .....15505	101-25 .....17649	208 .....15351
331 .....16304	165 .....15507, 16668, 17314	301-10 .....17946	216 .....15351
341 .....16304	34 CFR	301-53 .....17946	
346 .....16304	Proposed Rules:	42 CFR	49 CFR
355 .....16304	34 .....18072	68c .....17650	171 .....15736
358 .....16304	36 CFR	43 CFR	172 .....15736
369 .....16304	703 .....16018	3130 .....17866	173 .....15736
510 .....17282	1254 .....17286	3160 .....17866	174 .....15736
520 .....17284	Proposed Rules:	3430 .....17962	176 .....15736
522 .....17282	1190 .....15509	3470 .....17962	178 .....15736
701 .....16304	1191 .....15509	3800 .....17962	180 .....15736
Proposed Rules:	38 CFR	44 CFR	229 .....16032
212 .....15344	Ch. 1 .....16023	64 .....16030	232 .....17556
872 .....16338	20 .....16309	45 CFR	533 .....16052
22 CFR	39 CFR	Proposed Rules:	659 .....15725
62 .....17611	224 .....16023	701 .....17528	Proposed Rules:
Proposed Rules:	229 .....16023	702 .....17528	171 .....15510
213 .....17655	230 .....16024	703 .....17528	172 .....15510
26 CFR	233 .....16023	704 .....17528	173 .....15510
Proposed Rules:	266 .....16023	705 .....17528	175 .....15510
1 .....17309	273 .....16023	706 .....17528	191 .....16355
27 CFR	40 CFR	707 .....17528	192 .....16355
20 .....17937	52 .....15335, 15336, 16026, 16638, 16640, 16642, 16644, 17007, 17286, 17624, 17939	708 .....17528	195 .....16355
Proposed Rules:	62 .....17944	47 CFR	567 .....15769
4 .....17312	63 .....15486, 16317, 16582, 16614, 17762, 17824	1 .....16647, 17009	571 .....15769
28 CFR	81 .....16646, 17939	2 .....17009, 17288	574 .....15769
89 .....17027	148 .....16262	25 .....17288	575 .....15769
29 CFR	180 .....15727, 16027, 17631	26 .....17009	
1979 .....15454	261 .....16262	36 .....17013	50 CFR
2520 .....17264	268 .....16262, 17119	52 .....16322	17 .....15337
4022 .....16950	271 .....16262, 17636	54 .....15490, 17014	229 .....15493
4022B .....16950	302 .....16262	61 .....17009	600 .....15338
4044 .....16950	721 .....17643	69 .....15490, 17009	660 .....15338, 16322, 16323
Proposed Rules:	745 .....15489	73 .....15493, 15735, 15736, 16651, 16652, 17014, 17654	679 .....16325
552 .....16668, 17760	Proposed Rules:	74 .....16652	Proposed Rules:
30 CFR	9 .....17122	76 .....17015	17 .....15856, 16492
Proposed Rules:	Proposed Rules:	87 .....17288	92 .....16707
936 .....16341	936 .....17122	90 .....16652	600 .....15516
		Proposed Rules:	622 .....16359
		1 .....17036, 17325	635 .....17349
			648 .....16079, 16362
			660 .....17353, 17354
			679 .....15517

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 12, 2002**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Lamb promotion, research and information order; published 4-11-02

Oranges, grapefruit, tangerines, and tangelos grown in—

Florida; published 3-13-02

Tomatoes grown in—

Florida; published 3-13-02

Watermelon research and promotion plan; correction; published 4-12-02

COMMODITY FUTURES TRADING COMMISSION

Security futures products; dual trading restrictions; published 3-13-02

ENVIRONMENTAL PROTECTION AGENCY

Pesticide tolerance reassessment and reregistration; public participation process; comment request; published 3-13-02

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Federal-State Joint Board on Universal Service—

Carrier contributions to universal fund and manner in which costs are recovered from customers; correction; published 4-9-02

Federal-State Joint Board on Universal Service—

Carrier contributions to universal service fund and manner in which costs are recovered from customers; published 3-13-02

Frequency allocations and radio treaty matters:

27 MHz of spectrum transferred from Federal government use to non-government services; reallocation

Correction; published 2-25-02

27MHz of spectrum transferred from Federal

government use to non-government services; reallocation; published 2-11-02

FEDERAL TRADE COMMISSION

Appliances, consumer; energy consumption and water use information in labeling and advertising:

Comparability ranges—

Clothes washers; published 4-12-02

GENERAL SERVICES ADMINISTRATION

Federal travel:

Promotional materials and frequent traveler programs; personal use by Federal employees; published 4-12-02

JUSTICE DEPARTMENT**Immigration and Naturalization Service**

Nonimmigrant classes:

Change of status from B to F-1 or M-1 prior to pursuing a course of study; published 4-12-02

TRANSPORTATION DEPARTMENT**Federal Aviation Administration**

Airworthiness directives: General Electric Co.; published 3-8-02

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Avocados grown in—

Florida; comments due by 4-15-02; published 3-15-02 [FR 02-06139]

Milk marketing orders:

Upper Midwest; comments due by 4-15-02; published 2-14-02 [FR 02-03634]

Prunes (dried) produced in—

California; comments due by 4-15-02; published 3-15-02 [FR 02-06144]

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service**

Fruits and vegetables, imported; irradiation phytosanitary treatment; comments due by 4-15-02; published 3-15-02 [FR 02-06267]

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service**

Plant-related quarantine, domestic:

California and Oregon; phytophthora ramorum; public hearings; comments due by 4-15-02; published 2-14-02 [FR 02-03721]

AGRICULTURE DEPARTMENT**Commodity Credit Corporation**

Loan and purchase programs:

Noninsured Crop Disaster Assistance Program; comments due by 4-18-02; published 3-19-02 [FR 02-06212]

AGRICULTURE DEPARTMENT**Food Safety and Inspection Service**

Pizza identity standards; elimination; comments due by 4-15-02; published 3-14-02 [FR 02-06125]

COMMERCE DEPARTMENT**National Oceanic and Atmospheric Administration**

Endangered and threatened species:

Sea turtle conservation—

Fishing activities restrictions; comments due by 4-15-02; published 3-29-02 [FR 02-07708]

Fishery conservation and management:

Magnuson-Stevens Act provisions

Domestic fisheries; exempted fishing permit applications; comments due by 4-17-02; published 4-2-02 [FR 02-07931]

Northeastern United States fisheries—

Monkfish; comments due by 4-19-02; published 4-4-02 [FR 02-08076]

CONSUMER PRODUCT SAFETY COMMISSION

Federal Hazardous

Substances Act:

Certain model rocket propellant devices; use with lightweight surface vehicles; comments due by 4-15-02; published 1-30-02 [FR 02-02059]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Electronic listing of vehicles available for use by more than one agency; comments due by 4-16-02; published 2-15-02 [FR 02-03786]

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Administrative changes and technical amendments; comments due by 4-15-02; published 3-14-02 [FR 02-05743]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

Interstate ozone transport reduction—

Nitrogen oxides; Section 126 petitions regarding sources; and Title V operating permit programs, applicable requirement definition; comments due by 4-15-02; published 2-22-02 [FR 02-03918]

Nitrogen oxides; State implementation plan call, technical amendments, and Section 126 rules; response to court decisions; comments due by 4-15-02; published 2-22-02 [FR 02-03917]

State operating permits programs—

Connecticut; comments due by 4-15-02; published 3-15-02 [FR 02-06273]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 4-15-02; published 3-15-02 [FR 02-06271]

Texas; comments due by 4-19-02; published 3-20-02 [FR 02-06721]

Hazardous waste program authorizations:

Michigan; comments due by 4-15-02; published 2-28-02 [FR 02-04788]

Hazardous waste:

Resource Conservation and Recovery Act Burden Reduction Initiative; comments due by 4-17-02; published 1-17-02 [FR 02-00191]

Radiation protection programs:

Idaho National Engineering and Environmental Laboratory—

Transuranic radioactive waste for disposal at Waste Isolation Pilot Plant; waste characterization program documents availability; comments due by 4-19-02; published 3-20-02 [FR 02-06844]

Toxic substances:

Significant new uses—

Neodecaneperoxoic acid, etc.; comments due by 4-19-02; published 3-20-02 [FR 02-06724]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

International call-back service, uncompleted call signaling configuration; other nations' prohibitions enforcement; comments due by 4-15-02; published 3-8-02 [FR 02-05381]

Satellite services—

Satellite earth stations use on board vessels in bands shared with terrestrial fixed service; procedures; comments due by 4-19-02; published 3-22-02 [FR 02-06917]

Radio and television broadcasting:

Broadcast and cable EEO rules and policies; revision; comments due by 4-15-02; published 3-8-02 [FR 02-05380]

Noncommercial educational broadcast stations applicants; comparative standards reexamination; comments due by 4-15-02; published 3-5-02 [FR 02-05165]

FEDERAL TRADE COMMISSION

Telemarketing sales rule; comments due by 4-15-02; published 4-3-02 [FR 02-08016]

Textile Fiber Products Identification Act:

Elasterell-p; new generic fiber name and definition; comments due by 4-19-02; published 2-15-02 [FR 02-03195]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Electronic listing of vehicles available for use by more than one agency; comments due by 4-16-02; published 2-15-02 [FR 02-03786]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

No residue; definition revision; comments due by 4-17-02; published 1-17-02 [FR 02-01170]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Prescription drug marketing; effective date delay; comments due by 4-15-02; published 2-13-02 [FR 02-03282]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Cutaneous carbon dioxide and cutaneous oxygen monitors; reclassification into class II special controls; comments due by 4-15-02; published 2-12-02 [FR 02-03281]

HEALTH AND HUMAN SERVICES DEPARTMENT

Tribal Self-Governance Amendments of 2000; implementation:

Indian Health Service; tribal self-governance; comments due by 4-15-02; published 2-14-02 [FR 02-03248]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species: Critical habitat designations—Roswell springsnail, etc.; comments due by 4-15-02; published 2-12-02 [FR 02-03140]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Electronic listing of vehicles available for use by more than one agency; comments due by 4-16-02; published 2-15-02 [FR 02-03786]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Leyse, Robert H.; comments due by 4-15-02; published 1-29-02 [FR 02-02075]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements: Approved spent fuel storage casks; list; comments due by 4-15-02; published 3-15-02 [FR 02-06228]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste;

independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 4-15-02; published 3-15-02 [FR 02-06227]

PERSONNEL MANAGEMENT OFFICE

Employment:

Recruitment and selection through competitive examination; comments due by 4-16-02; published 2-15-02 [FR 02-03621]

PERSONNEL MANAGEMENT OFFICE

Pay administration:

Administratively uncontrollable overtime pay; comments due by 4-15-02; published 2-13-02 [FR 02-03410]

SMALL BUSINESS ADMINISTRATION

Small business size standards:

Nonmanufacturer rule; waivers—Plain unmounted bearings and mounted bearings; comments due by 4-15-02; published 4-4-02 [FR 02-07958]

Travel agencies; comments due by 4-15-02; published 3-15-02 [FR 02-06195]

SMALL BUSINESS ADMINISTRATION

Small business standards and disaster loan program:

Travel agencies; economic injury disaster loan program; comments due by 4-15-02; published 3-15-02 [FR 02-06194]

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Missouri; comments due by 4-16-02; published 2-15-02 [FR 02-03693]

Ports and waterways safety:

New London, CT; safety zone; comments due by 4-19-02; published 3-20-02 [FR 02-06765]

Oahu, Maui, Hawaii, and Kauai, HI; anchorages and security zones; comments due by 4-15-02; published 3-20-02 [FR 02-06733]

Ohio River, Shippingport, PA; security zone; comments due by 4-17-02; published 3-18-02 [FR 02-06364]

Pilgrim Nuclear Power Plant, Plymouth, MA; safety and security zone; comments

due by 4-15-02; published 1-29-02 [FR 02-02209]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bombardier; comments due by 4-19-02; published 3-20-02 [FR 02-06630]

Eurocopter France; comments due by 4-15-02; published 2-14-02 [FR 02-03580]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Eurocopter France; comments due by 4-19-02; published 3-20-02 [FR 02-06627]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pratt & Whitney; comments due by 4-15-02; published 2-14-02 [FR 02-03669]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Rolls-Royce plc; comments due by 4-15-02; published 2-14-02 [FR 02-03162]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness standards:

Special conditions—Airbus Industrie Model A340-500/-600 airplanes; comments due by 4-19-02; published 3-20-02 [FR 02-05876]

Dassault Aviation Fan Jet Falcon Series C, D, E, and F, and Mystere-Falcon 20-C5, 20-D5, 20-E5, and 20-F5 airplanes; comments due by 4-17-02; published 3-18-02 [FR 02-06365]

Liberty Aerospace Model XL-2 airplane; comments due by 4-15-02; published 3-14-02 [FR 02-06131]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Uniform Traffic Control Devices Manual—
Accessible pedestrian signals; comments due by 4-16-02; published 2-15-02 [FR 02-03619]

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

Motor carrier safety standards:
Mexican motor carriers—

Application form to operate beyond U.S. municipalities and commercial zones on U.S.-Mexico border; comments due by 4-18-02; published 3-19-02 [FR 02-05891]

Safety monitoring system and compliance initiative for carriers operating in U.S.; comments due by 4-18-02; published 3-19-02 [FR 02-05892]

TREASURY DEPARTMENT Internal Revenue Service

Income taxes and procedure and administration:

Foreign individuals claiming reduced withholding rates under income tax treaty and receiving unexpected

payment; taxpayer identification number requirements

Cross-reference; comments due by 4-17-02; published 1-17-02 [FR 02-01126]

Income taxes:

Catch-up contributions for individuals age 50 or over

Hearing date change and extension of comment period; comments due by 4-15-02; published 2-20-02 [FR 02-04093]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg/plawcurr.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/nara005.html>. Some laws may not yet be available.

H.R. 1499/P.L. 107-157

District of Columbia College Access Improvement Act of 2002 (Apr. 4, 2002; 116 Stat. 118)

H.R. 2739/P.L. 107-158

To amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes. (Apr. 4, 2002; 116 Stat. 121)

H.R. 3985/P.L. 107-159

To amend the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-

term leases", approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community. (Apr. 4, 2002; 116 Stat. 122)

Last List April 3, 2002

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to <http://hydra.gsa.gov/archives/publaws-l.html> or send E-mail to listserv@listserv.gsa.gov with the following text message:

SUBSCRIBE PUBLAWS-L
Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.